THE

REGULATIONS

OF

THE BENGAL CODE,

EDITED,

WITH A CHRONOLOGICAL TABLE OF REPEALS AND AMENDMENTS, AN INTRODUCTION, NOTES AND AN INDEX,

BY

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BOARD OF REVENUE, LOWER PROVINCES, CALCUTTA

CALCUTTA:

THACKER, SPINK AND CO.

BUTTERWORTHS, 7, FLEET STREET, LAW PUBLISHERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

BOMBAY: THACKER, VINING AND CO. MADRAS: HIGGINBOTHAM AND CO.

MDCCCLXXV.

1875

349.54102
F453

CALCUTTA:
PRINTED BY THACKER, SPINK AND CO.

1412

PREFACE.

THE Regulations of the Bengal Code were passed from 1793 to 1834 incl and extend therefore over a space of *forty-two* years. They numbered 675, and filled nine quarto volumes, comprising the largest portion Indian Statute-Book. Of these 675 Regulations there remain now wholly or partly in force. One of these applies only to the Strait ments, which no longer form a part of India.[1] There are therefore tions applicable to the Bengal Presidency in India which still ha in whole or in part.

The 36th Section of *The Regulating Act* (13 Geo. III, Ca A.D. 1773) empowered "the Governor-General and Council of the U pany's Settlement at Fort William in Bengal from time to time to make such rules ordinances and regulations for the good order and civil gove of the said United Company's Settlement at Fort William aforesaid a factories and places subordinate, or to be subordinate thereto, as shall just and reasonable (such rules, ordinances and regulations not nant to the laws of the realm), and to set, impose, inflict and levy fines and forfeitures for the breach or non-observance of such rules, and regulations." The Section then proceeded to enact that rules, and regulations made under these provisions were not to have an validity until they were duly registered in the Supreme Court with and approbation of the said Court.[2]

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[1] They were placed under the Government of Her Majesty as part of the Colonial P Crown in 1866 by the 29 and 30 Vic, Cap. 105.

[2] This provision for registration remained in force until 1833, when *the Governor-General Council* was vested with more extensive legislative powers for the whole of India by the 3 and 4 Cap. 85, section 45 of which enacted that it should not be necessary to register or publish in any justice any laws or regulations made by the said *Governor-General in Council.* The laws passed from under the powers conferred by this Statute were termed "Acts."

The 23rd Section of the 21st Geo. III, Cap. 70 (passed A.D. 1781), enacted at "the Governor-General and Council shall have power and authority from ne to time to frame Regulations for the Provincial Courts and Councils, and all within six months after the making the said Regulations transmit or cause e transmitted copies of all the said Regulations to the Court of Directors o one of His Majesty's Principal Secretaries of State, which Regulations Iajesty in Council may disallow or amend; and the said Regulations, if sallowed within two years, shall be of force and authority to direct the rovincial Courts, according to the tenor of the said amendment, provided e do not produce any new expense to the suitors in the said Court." It bserved that the legislative powers conferred by these provisions were e limited than those conferred by *The Regulating Act.* Registration me Court was not, however, made necessary to the validity of Regu- under the authority conferred by the Statute of 1781.

ercise of the legislative powers derived from the above two sec- Statutes of 1773 and 1781 a considerable number of regulations ed before 1793, none of which are, however, now in force.[1] In that Governor-General, the Marquis Cornwallis, resolved to exercise his tive functions in a more exact and formal manner. The plan which he o adopt will be found fully stated in Regulation XLI of 1793, the which recites that "it is essential to the future prosperity of the tories in Bengal that all Regulations which may be passed by affecting in any respect *the rights, persons or property of their* ald be formed into a regular code and printed with translations in the iguages; that the grounds on which each Regulation may be enacted efixed to it; and that the Courts of Justice should be bound to eir decisions by the rules and ordinances which those Regulations n." Section 2 enacted that "every rule or order that may be passed vernor-General in Council regarding the administration of justice,— n or levying of taxes or of duties on commerce,—the collection of revenue assessed upon the lands,—the rights and tenures of the

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cannot find that they were ever formally rescinded; but they were *re-enacted* in the Code of 1793— example, the Preambles of Regulations VIII, IX, X, &c., of 1793,—and this was regarded as a super- amounting to a rescission. These old Regulations will be found in *Colebrooke's Supplement.*

proprietors and cultivators of the soil,—the provision of the Company's investment,—the manufacture of salt or opium,—and generally all Regulations affecting in any respect the rights, persons or property of the natives, or any individuals who may be amenable to the Provincial Courts of Judicature, shall be recorded in the Judicial Department, and there framed into a Regulation, and printed and published."

The scope of legislation contemplated in this enumeration extends considerably beyond the limits of the section of the Statute of 1781, and all the excess falls within the section of the Statute of 1773, which required registration in the Supreme Court in order to give validity and binding effect. It has in consequence been on many occasions objected that certain Regulations are invalid because they were not registered in the Supreme Court; and it may be that this objection has a certain weight in the case of any Regulation which cannot be brought within the limits of the Statute of 1781, and as to the non-registration of which there can be no doubt.[1]

It is, however, necessary to consider the effect of the 37 Geo. III, Cap. 142, passed in 1797. Section 8 of this Statute—reciting that certain Regulations for the better administration of justice among the native inhabitants and others being within the Provinces of Bengal, Bahar, and Orissa had been from time to time framed by the Governor-General in Council in Bengal; and among other Regulations it had been established and declared as essential to the future prosperity of the British territories in Bengal, that all Regulations passed by Government affecting *the rights, properties or persons of the subjects* should be formed into a regular code, and printed with translations in the country languages, and that the grounds of every Regulation be prefixed to it, and that Courts of Justice be bound to regulate their decisions by the rules and ordinances which such Regulations may contain; and that it was essential that so wise and salutary provision should be strictly observed, and that it should not be in the power of the Governor-General in Council to neglect or dispense with the same—enacted that all Regulations which should be issued and framed by the Governor-General in Council at Fort William in Bengal, *affecting the rights, persons or property of the natives or of any other individuals amenable to the*

[1] It is usual to contend that there is a presumption in favour of registration—*omnia rite esse acta.*

Provincial Courts of Justice, should be registered in the Judicial Department,[1] and formed into a regular code, and printed with translations in the country languages, and that the grounds of each Regulation should be prefixed to it, and all the Provincial Courts of Judicature should be bound by and regulate their decisions by such rules and ordinances as should be contained in the said Regulations; and that ten copies of the Regulations passed in each year should be transmitted annually to the Court of Directors, and the same number to the Board of Commissioners for the affairs of India. This was a recognition and confirmation of the footing upon which the legislative functions of the Governor-General in Council had been placed by the Marquis Cornwallis in 1793.

On the 28th July 1800 was passed the 39 and 40 Geo. III, Cap. 79, Section 20 of which enacted that all such Regulations as had been or might be thereafter, according to the powers and authorities, and subject to the provisions and restrictions before enacted, framed and provided, should extend to and over the province or district of Benares, and to and over all the factories, districts and places which then were or might thereafter be made subordinate thereto, and to and over all such provinces and districts as might at any time thereafter be annexed and made subject to the Presidency of Fort William. By these provisions the Regulations of 1795, passed for Benares, were validated : and the Governor-General in Council was empowered to legislate for the Ceded and Conquered Provinces, Bundlekund, and other territories subsequently acquired.

The last Statute concerned with the legislative powers, under which Regulation Law was made, is the 53 Geo. III, Cap. 155, passed on the 21st July 1813. Section 66 of this Statute enacted that the copies of the Regulations required to be sent home should be laid annually before Parliament. Section 96, reciting certain doubts that had existed on the subject and the expediency of removing such doubts, enacted that the Governments of Fort William, Fort Saint George, and Bombay "have and shall, during the continuance of the term hereby granted to the said Company, be deemed and taken to have full power and authority to make all such Laws and Regulations and Articles of War as they may think fit for the order and discipline of all officers and soldiers, natives

[1] Of Government, that is. It may be a question whether it was not intended to substitute this registration for registration in the Supreme Court, as to which latter the Section is wholly silent.

of the East Indies or other places within the limits of the said Company's Charter, in their respective services, and for the administration of justice by Courts-Martial to be holden on such native officers and soldiers, in as full and ample a manner as the said Governments respectively may make any other Laws or Regulations for the government of the natives of the several territories subject to the said Presidencies respectively," provided that such Laws, Regulations, and Articles of War be made and promulgated in every respect in the same manner as other Regulations made under the 37 Geo. III, Cap. 142.[1]

The 98th Section empowered the Governor-General in Council of Fort William in Bengal to impose all such duties of customs and other taxes to be levied, raised and paid within the Town of Calcutta, and upon and by all persons whomsoever, resident or being therein, and in respect of all goods, wares, merchandizes. commodities and property whatsoever being therein; and also upon and by all persons whomsoever, whether British-born or foreigners, resident or being in any country or place within the authority of the said Government; and in respect of all goods, wares, merchandizes, commodities and property whatsoever, being in any such country or place, *in as full, large, and ample a manner* as such Governor-General in Council might lawfully impose any duties or taxes to be levied, raised or paid upon and by any persons whomsoever, or in any place whatsoever within the authority of the said Government.[2] No duty or tax was, however, to be valid until sanctioned by the Court of Directors with the approbation of the Board of Commissioners. The 99th Section gave power to make Laws and Regulations respecting such duties and taxes, and to impose fines, penalties and forfeitures for the non-payment thereof or the breach of such Laws and Regulations.

In the exercise of the powers conferred by these Acts of Parliament, which powers were purely statutory, the Regulations of the Bengal Code, which form

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[1] It is worthy of observation that this proviso refers not to the Statutes of 1773 and 1781, but to the Statute of 1797, which recognized and confirmed the powers assumed in 1793.

[2] This presupposes and acknowledges a power to impose taxes in the Mufassal, not given *totidem verbis* by the Statutes of 1773 and 1781, unless it be included in the general language of the former. Such a power was, however, assumed from the first (see Preamble to Reg. XXVII of 1793 and the Minutes on the Permanent Settlement). It was distinctly set out in Section 2 of Reg. XLI of 1793 (see *ante*, p. iv.), and was certainly ratified by the 37 Geo. III, Cap. 142, which otherwise confirmed this Regulation.

the subject of this volume, were passed by the Governor-General in Council of Fort William in Bengal.[1]

I first undertook to prepare an edition of the Bengal Regulations in 1868; and I was enabled to make such progress with the work during my stay in England on furlough that I was ready to go to press in the beginning of 1870. One of the results of my labours was, however, to impress me very strongly with the idea that the Regulations, so far as they were then unrepealed, contained a large amount of obsolete matter, which would well be expressly rescinded before the publication of a new edition. I communicated this view to the Legislative Department of the Government of India, who were pleased to coincide therein; and, in consequence, the execution of my task was for the time deferred. The work of consolidation and repeal, and of setting the Indian Statute Book in order has since been carried on so effectually that all the obsolete portions of the Regulation Code, which could be detached without injury to what is still of use and effect, have been removed; and I am now enabled to lay before the Government and the public an edition more complete and of greater practical utility than that which I was about to publish in 1870.

As to the plan of the work,—the *first* part consists of a *Chronological Table*, showing how far each Regulation has been repealed, amended, or altered. Every clause and section will, I trust, be found fully accounted for. The *Titles* of these Regulations which have been wholly repealed are printed in italics. The plan of this *Table* is the same as that of a similar *Table* already published for the Acts from 1834; but by a slight alteration of arrangement two of the parallel columns have been dispensed with, and a considerable saving effected in the cost of printing.

The *second* part consists in the first place of an *Introduction* in four chapters, the object of which it may be well to explain. The old Regulations, more especially the Preambles to many of them, contained a large amount of valuable information as to the constitutional history and progress of the country under the Native Governments, and during the early period of British rule. It

[1] An account of legislation in the other Presidencies and of the powers of the Indian Legislature generally from 1834 will be found in the *Introduction* to the *Chronological Table of, and Index to, the Indian Statute Book from* 1834.

has been already pointed out that, of the 675 Regulations which were originally contained in the Code, there are now only 78 wholly or partly in force. Amongst those Regulations which have been altogether repealed are many of the richest in the information of which I speak. In these days of high pressure in all that concerns work, when there is so much in actual force which requires to be carefully studied, the laws that have been repealed and removed from the Statute Book are not likely to be generally read in search of information, which is, however, the most valuable that can be possessed by those called to the administration of the country. The existing system in almost all departments is of modern creation, but its foundations rest in the past; and the greater the knowledge of that past which any one engaged in the work of administration possesses, the better he is acquainted with all that has been already done and tried and approved or condemned by experience—the more competent will he be to work the system now in force, and to suggest improvements where it is found to fail. It was of course impossible for me, in the space which could be afforded to an *Introduction*, to go as fully as I could desire into all the topics which I have attempted to handle. I trust, however, that I have been able to do enough to give a succinct view of each subject (extending not merely over the period of the Regulations, but down to the present time) which may be useful, if not to others, yet to those who may hereafter be appointed to the public service.

After the *Introduction* comes the unrepealed text of the Regulations, the Notes to which will, I think, be found to contain every decision of any importance connected with the text. I have here also made each subject complete to date, including the later enactments by which the Regulation Law has been modified or supplemented.

The *Index* will, I hope, be found sufficiently comprehensive to afford a ready means of reference to the contents of the book.

C. D. F.

BERHAMPORE,
October 11*th*, 1875.

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Revenue, Judicial, and Police Journal (Calcutta High Court), Vols. I—V (August 1863 to November 1865)	R. J. and P. J.
Legal Remembrancer (Calcutta High Court, June, July, August 1864) . .	Leg. Rem.
Revenue, Civil, and Criminal Reporter (Calcutta High Court), Vols. 1—V (November 1865 to May 1868)	R. C. and C. R.
Marshall's Reports (Calcutta High Court), Vol. I. (July 1862 to July 1863). .	Marsh. Rep.
Sevestre's Reports in continuation of Marshall's Reports (August 1863 to December 1863)	Sev. Aug.—Dec. 1863.
Sutherland's Reports in continuation of Marshall's Reports (January 1864 to July 1864)	Suth. Rep. Jan.—July 1864.
Sutherland's Rulings on References from Mofussil Small Cause Courts (Calcutta High Court, October 1861 to August 1865)	Suth. S. C. C. Ref.
Sutherland's Weekly Reporter, Special Number (Calcutta High Court, July 1862 to July 1864)	W. R. Special No.
Ditto ditto. (Calcutta High Court), from August 1864 to date, — Civil Rulings .	W. R. Civ. Rul.
Ditto ditto. Decisions of the Privy Council	W. R. P. C.
Indian Jurist, Old Series (Calcutta High Court)	Ind. Jur. O. S.
Ditto ditto, New Series (Calcutta High Court, January 1866 to September 1867) .	Ind. Jur. N. S.
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Ditto ditto.—Appellate Jurisdiction, Civil	B. L. R A. J. C. or A. C
Ditto ditto.—Original Jurisdiction, Civil	B. L. R. O. J. C. or O. C
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N.B.—The Bengal Law Reports, commencing with Vol. V, consist of one Part only and an Appendix.	
Full Bench Rulings, Supplemental Volume to the Bengal Law Reports (February 1863 to April 1868)	B. L. R. Sup. Vol. F. B.
Reports of the High Court, North-West Provinces	N-W-P. Rep.
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Moore's Indian Appeals, decided by the Judicial Committee of the Privy Council .	Moo. Ind. Ap.
The Law Reports, Indian Appeals, in succession to Moore's Indian Appeals from 1874	L. R. I. A.

ADDENDA ET CORRIGENDA.

Part I, page 1, after title of Reg. I, read 1*st May* for 21*st May*.

Part I, page 40, opposite Reg. V of 1799, in col. 2, add—"Section 7 was extended to British Burma by Section 98 of Act XVII of 1875."

Part I, page 103, opposite Reg. V of 1817, add—"The unrepealed portions were extended to British Burma by Section 98 of Act XVII of 1875."

Part I, page 108, opposite Reg. III of 1818, add—"The unrepealed portions were extended to British Burma by Section 98 of Act XVII of 1875."

Part II, page 22, foot-note 6, for *England*, read *India*.

A

CHRONOLOGICAL TABLE

OF

THE REGULATIONS OF THE BENGAL CODE.

(B. C.) after the number of any Act in the last column, denotes an Act of the Bengal Legislative Council.

The Titles of those Regulations, which have been wholly repealed, are printed in Italics.

N.B.—All Bengal Regulations in force in the Panjâb were repealed therein by s. 4, Act IV of 1872 (*see* Schedule II), save and except those specified in Schedule I of the same Act, against which the fact of their being in force in the Panjâb is noted in the following pages (1).

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
I (11 SECTIONS).—A Regulation for enacting into a Regulation certain Articles of a Proclamation, bearing date the 22nd March 1793. (*Passed 21st May.*) [Contains the conditions of the Permanent Settlement of Bengal, Bahar, and Orissa.]	So much of ss. 10 and 11 as relates to the adjustment of the Government jamâ on lands exposed to public sale in satisfaction of the decrees of the Civil Courts, together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, *see* Schedule IV, Act XV of 1874. It is also in force in the Santhal Parganas, *see* Note at foot.

(1) As to the *Santhal Parganas*, see a Regulation made under the 33rd Vict., Cap. 3, s. 1, and published at page 468 of the *Gazette of India* of the 4th May 1872; also at page 2056 of the *Calcutta Gazette* of the 8th May 1872. Section 3 of this Regulation declares the following Regulations of the Bengal Code, of which two, *viz.*, XIV of 1793 and VII of 1799, have been since repealed, or the unrepealed portions of them to be in force in the Santhal Parganas.

I of 1793	I of 1798	V of 1812	II of 1819
VIII of 1793	VII of 1799	XI of 1812	VIII of 1819
XIV of 1793	VIII of 1800	XVIII of 1812	I of 1820
XIX of 1793	I of 1801	XIX of 1814	VII of 1823
XXXVII of 1793	X of 1804	XXIX of 1814	VI of 1825
XXXVIII of 1793	XI of 1806	V of 1817	XI of 1825
XLVIII of 1793	XVII of 1806	XII of 1817	XIII of 1825
III of 1794	XX of 1810	III of 1818	XIV of 1825
XV of 1797	XI of 1811	I of 1819	XVII of 1829

As to the *Hill District of Arakan*, see *the Arakan Hill District Laws Regulation*, page 83 of Part I of the *Gazette of India* of the 20th February 1875, which repeals all the Bengal Regulations therein except X of 1804, XI of 1812 and III of 1818.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
II (70 SECTIONS).—A Regulation for abolishing the Courts of Mâl Adálat, or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Díwání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors. (*Passed* 1*st May.*)	S. 2, the second sentence of s. 3, and ss. 19 and 48 were repealed by s. 1, Act XII of 1871, save as therein provided. S. 3 was modified by s. 25, Reg. V of 1804. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 4, the words and figures "published in the manner directed in Regulation XLI, 1793." In s. 8, cls. *eleventh* and *twelfth* In s. 9, the first three words. In s. 10, the words "or dewans." In s. 14, the words "and the dewan" In ss. 15 and 18, the words "or dewan." In s. 16, the words "dewan or other." Ss. 21, 22, 27, 30, 31, 32, 46, and 47. In s. 24, the words and figures "by a Regulation published in the manner directed in Regulation XLI, 1793, or." In s. 25, the words "and the species of rupee in which each payment may be made." In s. 26, the last sentence. S. 12 was repealed by Act XXV of 1854. S. 13 was repealed in part by s. 3, Reg. V of 1804. S. 17, and the following words in s. 46, "giving land in farm to any European directly or indirectly, or accepting the security of a European for any farmer, dependant tálukdár, or raiyat, or," were repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* Ss. 23 and 44 were repealed by s. 2, Act XXVI of 1871, save as therein provided. Ss. 28, 29, 34, 35, and 49 to 70 inclusive were repealed by cl. 1, s. 2, Reg. III of 1822. So much of this Reg. as relates to the appointment and duties of Díwán was repealed by s. 2, Reg. XV of 1813. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, *see* Schedule IV, Act XV of 1874.
III (21 SECTIONS).—*A Regulation for extending and defining the Jurisdiction of the Courts of Díwání Adálat, or Courts of Judicature for the Trial of Civil Suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.* (Passed 1st May.)	So much of this Reg. as constitutes Moorshedabad a separate Zillah, was repealed by s. 2, Reg. I of 1806. So much as constitutes the City of Dacca and the Zillah of Dacca Jelalpore separate jurisdictions, was repealed by s. 2, Reg. V of 1833. S. 14 was modified by ss. 2 and 3, Reg. II of 1805, and repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much as relates to the constitution of the Zillahs of Ramghur and Jungle Mahals was repealed by s. 2, Reg. XIII of 1833. So much of s. 17 as enacts that the Díwání Adálat of the 24-Parganas shall not receive any suit against a person, an inhabitant of Calcutta, &c., was repealed by Act XXII of 1843.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
III.—(*Continued.*)	Ss. 7, 8, 9, 10, 11, 12, 13, 15, 16, 18, 19, and 20 were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. So much as had not been previously repealed was repealed by s. 2, Act VI of 1871 (see Schedule).
IV (26 SECTIONS).—*A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Diwání Adálat established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.* (Passed 1st May.)	Ss. 1, 2, 3, 4, 5, 6 except so much as relates to the administering of oaths to parties and witnesses, 7, 8, 10, 11, 12, 13, 16, 18, 19, 21 and 26, were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. S. 3 was modified by s. 2, Reg. XIII of 1808; and so much of it as requires the transcription of plaints was repealed by Act XIV of 1847. S. 5 was modified by cl. 1, s. 2, Reg. II of 1806. Sections 5 and 6 were modified by cl. 1, s. 6, Reg. XXVI of 1814. S. 6 was extended to Criminal Courts by s. 2, Reg. L of 1803. So much of s. 6 as had not been previously repealed, was repealed by s. 2, Act X of 1873 (see Schedule). S. 8 was modified by s. 2, Reg. VI of 1830. Ss. 14 and 20 were repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much of s. 15 as declares that in the respective cases mentioned therein, the Mahomedan and Hindú law officers of the court are to attend and expound the law, was repealed, save in so far as it repeals any other Reg., &c., by Act XI of 1864. The whole of s. 15 was repealed by s. 2, Act VI of 1871 (see Schedule). S. 17 was repealed by s. 1, Act XII of 1856. S. 20 was explained by s. 20, Reg. XLIX of 1803. Ss. 22, 23, and 24 were extended by s. 2, Reg. IX of 1799.—See also s. 3, *idem.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
V (32 SECTIONS).—*A Regulation for establishing four Provincial Courts of Appeal for hearing appeals from decisions passed in the several Zillah and the three City Courts, and defining their powers and duties, and prescribing Rules for receiving and deciding upon appeals, and other causes of which they are declared to have cognizance.* (Passed 1st May.)	So much of this Reg. as constitutes Moorshedabad a separate Zillah was repealed by s. 2, Reg. I of 1806.—See also s. 3, *idem.* So much of s. 2 as provides that the Provincial Courts shall be superintended by three judges was repealed by cl. 1, s. 2, Reg. V of 1814. S. 6 was modified by s. 8, Reg. II of 1821. S. 8 was repealed by s. 5, Reg II of 1798. Such part of s. 10 as relates to charges of corruption against judges was repealed by s. 2, Reg. X of 1806; and so much as relates to charges of corruption generally, by s. 1, Act XXVI of 1839.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
V.—(*Continued.*)	S. 12 was modified by Reg. XIII of 1796, and by s. 4, Reg. XII of 1797; and was repealed by s. 9, Reg. II of 1798. S. 13 was modified by s. 8, Reg. IX of 1831. S. 31 was repealed by s. 2, Reg. XIX of 1797. The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg.
VI (31 SECTIONS).—*A Regulation for extending and defining the powers and duties of the Court of Sadr Díwání Adálat, and prescribing Rules for receiving and deciding upon appeals from the decisions of the Provincial Courts of Appeal.* (Passed 1st May.)	S. 2 was repealed by s. 2, Reg. II of 1801. Ss. 3, 13, and 14 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* Ss. 4, 5, 6, 7, 9, 10, 11, 12, 15, 16, 17 except so much as relates to the administering of oaths, 18, 19, 20, 21, 22, 28, 29, and 30 were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. Cl. 2, s. 4, and cl. 2, s. 5, were repealed by s. 5, Reg. II of 1798. S. 8 was repealed by s. 2, Reg. X of 1806, and again by s. 1, Act XXVI of 1839. S. 10 was modified by Reg. XIII of 1796, by ss. 2 and 3, Reg. XII of 1797: was repealed by s. 9, Reg. II of 1798: and was modified by Act IV of 1850. S. 11 was modified by s. 8, Reg. IX of 1831, and by cl. 1, s. 4, Act XV of 1853. S. 30 was repealed by s. 18, Reg. II of 1801. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
VII (33 SECTIONS).—*A Regulation for the appointment of Vakíls or Native Pleaders in the Courts of Civil Judicature in the Provinces of Bengal, Bahar, and Orissa.* (Passed 1st May.)	Part of s. 9 was repealed by s. 9, Reg. V of 1798. S 25 was repealed by s. 5, Reg. VIII of 1797. The whole Reg. was repealed by s. 2, Reg. XXVII of 1814.
VIII (101 SECTIONS).—A Regulation for re-enacting, with modification and amendments, the Rules for the Decennial Settlement of the Public Revenue payable from the lands of Zemindárs, independent Tálukdárs, and other actual proprietors of land in Bengal, Bahar, and Orissa, passed for those provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, and subsequent dates. (*Passed 1st May.*)	Such parts of this Reg. as require proprietors of land to prepare forms of pattás to be revised by the Collectors, &c., were repealed by s. 3, Reg. V of 1812. Such parts as relate to the adjudication of penalties for the refusal of pattás and receipts for rent, and for the exaction of abwábs, &c., were modified by s. 1, Act X of 1859. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—Ss. 1, 2, 3, 5 to 12 (both inclusive), 42, 44, 45, 46, 47, 61, and 63. In s. 17, the second sentence. In s. 18, the second sentence. S. 21, from and including the words "in the mode" to the end of the section. In s. 35, the second sentence. Ss. 68 to 101, both inclusive.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
VIII.—(*Continued.*)	S. 20, so far as it relates to disqualification on the ground of contumacy or notorious profligacy of character, was repealed by s. 2, Reg. VII of 1796. Ss. 23, 24, and 25 were repealed by s. 2, Reg. XVII of 1805. In connection with ss. 44—47, see cl. 1, s. 5, Reg. VII of 1822; s. 2, Reg. IX of 1825; and s. 11, Reg. IX. of 1833. S. 51 was modified by s. 15, Act X of 1859. Ss. 54, 56, 57, 58, 59, and 61 are not to apply to the Bahar portion of Ramghur, see s. 2, Reg. IV of 1794. The operation of s. 61 in Boglepore was postponed by Reg. II of 1794. The operation of s. 61, &c., in Purnea and Nuddea, was postponed by s. 4, Reg. IV of 1794. Cl. 2, s. 62, was modified in its application to the Bahar portion of Ramghur, by s. 3, Reg. IV of 1794. S. 62 was repealed by s. 2, Reg. XII of 1817, so far as relates to the Ceded and Conquered Provinces, Bahar, Benares, Cuttack, Puttaspore, and its dependencies. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—See Schedule IV, Act XV of 1874. It is also in force in the Santhal Parganas—See Note, page 1.
IX (79 SECTIONS).—*A Regulation for re-enacting, with Alterations and Modifications, the Regulations passed by the Governor-General in Council on the 3rd December 1790, and subsequent dates, for the apprehension and trial of persons charged with crimes or misdemeanours.* (Passed 1st May.)	The rules as to the delivery of fatwas contained in this Reg. were modified by s. 5, Reg. VI of 1832. So much as constitutes the city of Dacca and the Zillah of Dacca Jelalpore separate jurisdictions, was repealed by s. 2, Reg. V of 1833. So much as constitutes Moorshedabad a separate Zillah, was repealed by s. 2, Reg. I of 1806—See also s. 3, *idem.* Ss. 2 and 3 were modified as to Judges holding the office of Magistrate by cl. 1, s. 2, Reg. XVI of 1810. Ss. 2, 20, 21, 25, 31, 32, 33, 35, 36, 37, 39, 60, 62, 63, 71, 72, 73, and 79 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* Ss. 3 and 34 were repealed by s. 2, Act X of 1872. (See Schedule I.) Ss. 4 to 12, 14 to 18 inclusive, 23, 26, 27, 29, 47, 48, 49, 50, 51, 53, 54, 56, 57, 58, 61, 64, 65, 74, 75, 77, and 78, save in so far as they repeal any prior Reg. or Act, were repealed by Act XVII of 1862, *q. v.* Ss. 5 and 6 were explained by s. 2, Reg. VIII of 1822.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
IX.—(*Continued.*)	S. 5 was modified by cl. 1, s. 2, Reg. VIII of 1830; and was repealed in part by s. 2, Reg. IX of 1807, and in part by s. 1, Act II of 1856. Ss. 13, 28, and 30 were repealed by s. 2, Reg. VII of 1829. S. 19 was repealed by s. 1, Reg. II of 1796. Ss. 20, 21, and 25 were repealed, so far as they relate to the Bengal Division of the Presidency of Fort William, save in so far as they repeal or modify any other Reg. or Act, &c., by s. 1, Act II (B. C.) of 1864. S. 22 was repealed by s. 6, Reg. XIV of 1797. S. 24 was repealed by s. 13, Reg. XVI of 1810. S. 38 was repealed by s. 4, Reg. XVIII of 1817. Ss. 41 to 46 inclusive were repealed by s. 2, Reg. VII of 1794. Ss. 52, 55, and 76 were repealed by s. 2, Reg. IV of 1797. S 59 was repealed by cl. 1, s 5, Reg. XII of 1825. S. 67 was repealed by s. 2, Reg. II of 1801. S. 75 was explained and extended by s. 5, Reg. VIII of 1799. S. 77 was modified by s. 6, Reg. VII of 1832. So much as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.
X (36 SECTIONS).—*A Regulation for re-enacting, with Modifications, the Rules passed by the Governor-General in Council on the 15th July 1791, and subsequent dates, for the establishment and guidance of the Court of Wards relative to disqualified landholders and their estates.* (Passed 1st May.)	Cl. 4, s. 5, was repealed by s. 2, Reg. VII of 1796. So much of s. 5 as relates to lunatics or idiots was repealed by s. 1, Act XXXV of 1858. S. 8 was repealed by s. 26, Reg. VII of 1799. S. 28 was repealed by s. 2, Reg. XXVI of 1793. The whole Reg., so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B. C.) of 1870. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XI (6 SECTIONS).—A Regulation for removing certain restrictions to the operation of the Hindú and Mahomedan laws, with regard to the inheritance of landed property subject to the payment of Revenue to Government. (*Passed 1st May.*)	Modified in its application to the Jungle Mahals of Midnapore by Reg X of 1800. In force throughout the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—See Schedule IV, Act XV of 1874. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:——S. 2 down to and including the word "Hijeree." In s. 3, the words "subsequent to the period specified in Section II." S. 4, down to and including the words "and that." S. 5, except the first ten words, and in s. 6, the figure and words "VI. Nor to."

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XII (9 SECTIONS).—*A Regulation for the appointment of the Hindú and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature.* (Passed 1st May.)	Explained by cl. 1, s. 6, Reg. XVIII of 1817. Cl. 2, s. 5, was repealed by s. 4, Reg. XVIII of 1817. Cl. 1, s. 8, was modified by s. 2, Reg. III of 1827. S. 9 was modified by cl. 1, s. 15, Reg. IX of 1807. The whole Reg., save in so far as it repeals any prior Reg., &c., was repealed by Act XI of 1864.
XIII (11 SECTIONS).—*A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective duties.* (Passed 1st May.)	Explained by cl. 1, s. 6, Reg. XVIII of 1817. S. 2 was repealed in part by s. 2, Reg. V of 1804. S. 4 was modified by s. 3, Reg. XVIII of 1817. S. 6 was repealed by s. 2, Reg. VIII of 1794, and as to its application to Benares by s. 2, Reg. LIV of 1795. S. 7 was repealed in part by s. 6, Reg. IV of 1796. Such parts of s. 9 as relate to charges of corruption, &c, against Registrars and other Officers of the Courts who are covenanted servants, were repealed by s. 3, Reg. X of 1806: cl. 8 of the same section was modified by s. 2, Reg. III of 1827. Cls. 9, 10, and 11, and such other parts of s. 9 as relate to covenanted servants of the Company, were repealed by s. 1, Act XXVI of 1839. Ss. 9 and 11, save in so far as they repeal any prior Reg. or Act, were repealed by Act XVII of 1862, *q v.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XIV (48 SECTIONS).—*A Regulation for the Recovery of Arrears of the Public Revenue assessed upon the lands, from Zemindárs, Independent Tálukdárs, and other actual proprietors of land, and Farmers of land holding farms immediately of Government.* (Passed 1st May.)	S. 2 was repealed by s. 1, Act XII of 1841. S. 3 was explained and modified by s. 2, Reg. XVIII of 1814. Such parts of ss. 3, 24, and 25 as prescribe the issue of dustuks, &c., or the attachment of estates, before bringing defaulters' property to sale, or which restrict the Revenue Authorities in the selection of lands for sale, &c., were repealed by cl. 2, s. 2, Reg XI of 1822. S. 4 was superseded by s. 3, Reg. III of 1794, and cl. 2, s. 23, Reg. VII of 1799. S. 5 was modified by cl. 2, s. 23, Reg. VII of 1799; and see also cl. 2, s. 2, Reg. XI of 1822. S. 7 was repealed by cl. 1, s. 2, Reg. VII of 1830. S. 8 was modified by ss. 3 and 14 of Reg. III of 1794, and by cl. 2, s. 2, of Reg. XI of 1822. See also cl. 7, s. 23 of Reg. VII of 1799. Ss. 9, 10, 11, 14, and 22 were repealed by s. 11, Reg. III of 1794. Ss. 13, 25, 26, 27, and 28 were repealed by cl. 1, s. 2, Reg. XI of 1822.

No. of Regulation, and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XIV.—(*Continued.*)	S. 23 was superseded in part by cl. 6, s. 23, Reg. VII of 1799. S. 24 was modified by s. 30, Reg. VII of 1799. S. 40 was repealed by s. 2, Act XXVI of 1871, save as therein provided. S. 44 was repealed (so far as relates to the Lower Provinces of Bengal) by s. 29, Act VII (B. C.) of 1868. This Reg. is in force in the Santhal Parganas. See Note, page 1. So much as had not been previously repealed was repealed by s. 1, Act XIV of 1874, save as therein provided.
XV (12 SECTIONS).—*A Regulation for fixing the Rates of Interest on past and future Loans.* (Passed 1st May.)	Ss. 4, 6, 7, 8, 9, 10, and 11 were repealed by s. 1, Act XXVIII of 1855. So much of this Reg. as had not been previously repealed, was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVI (10 SECTIONS).—*A Regulation for referring Suits to Arbitration, and submitting certain cases to the decision of the Názim.* (Passed 1st May.)	Such parts of s. 4 as prohibit Vakíls from being employed as arbitrators were repealed by s. 2, Reg. XXVII of 1814. S. 10 was repealed by s. 1, Act XXVII of 1854. The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg.
XVII (34 SECTIONS).—*A Regulation for re-enacting, with Alterations and Amendments, the Regulations passed by the Governor-General in Council on the 20th July 1792, for empowering Landholders and Farmers of land to distrain and sell the personal property of under-farmers, raiyats and dependent Tálukdárs, and [in certain specified cases] their Sureties, for Arrears of Rent or Revenue, and for preventing Landholders and Farmers of land confining or inflicting corporal punishment on their under-farmers, raiyats and dependent Tálukdárs, or their Sureties, to enforce payment of arrears.* (Passed 1st May.)	Ss. 3 and 4 were repealed in part by s. 4, Reg. VII of 1799. S. 5 was repealed in part by s. 3, *idem.* Part of s. 8, and ss. 9 and 10, were repealed by s. 2, Reg. XXXV of 1795. Ss. 9 to 20 inclusive were expressly superseded by s. 14, Reg. VII of 1799. S. 21 was modified by s. 10, *idem.* *N. B. The modifications made by Reg. VII of 1799 are numerous and important.* S. 22 was repealed by s. 4, Reg. XXXV of 1795. S. 26 was repealed by s. 6, *idem.* The whole Reg., except in so far as it repeals any other Reg. &c., was repealed by s. 1, Act X of 1859.
XVIII (18 SECTIONS).—*A Regulation for preserving complete the Records of the Civil and Criminal Courts of Judicature, and requiring the Zillah and City Courts to transmit Monthly Reports of the Suits decided by them to the Provincial Courts of Appeal, and directing the Provincial Courts of Appeal to submit Monthly Reports of the Appeals and Causes decided by them to the Sadr Díwání Adálat.* (Passed 1st May.)	Ss. 10 and 14 were repealed by s. 16, Reg. V of 1798. Ss. 11, 12, 13, 15, 16, 17, and 18 were repealed by s. 2, Reg. VII of 1829. So much as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XIX (49 Sections).— A Regulation for re-enacting, with modifications, the Rules passed by the Governor-General in Council on the 1st December 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the Payment of Revenue to Government, under grants not being of the description of those termed *badsháhí* or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue. (*Passed 1st May.*)	Such parts of this Reg. as require a specification of *the names of villages or other sub-divisions* in the Registers thereby prescribed were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of the measurement or rents of land were repealed by s. 12, *idem.* Such parts as require counterparts of the Registers to be prepared in the Bengalí and Hindustaní languages were repealed by s. 15, *idem*, as also such parts as require copies to be sent to the Civil Judges. This Reg. was further modified by s. 1, Reg. XIV of 1825. See also Regs. II of 1819, IX of 1825, and III of 1828. So much of s. 10 as authorizes and requires proprietors and farmers of estates and dependent talúks to collect the rents of lands granted exempt from the payment of revenue subsequent to the dates therein specified, to dispossess the grantees of such land and re-annex it to the estate or talúk in which it may be situate, was repealed by s. 28, Act X of 1859. Ss. 12, 13, 14, and 16 were repealed by s. 2, Reg. V of 1813, so far as respects the district of Cuttack, the Pargana of Puttaspore and its dependencies. Ss. 12, 13, 14, 16, and 19, so far as they are applicable to Bahar, Bhaugulpore, and Purnea, were repealed by s. 2, Reg. XI of 1817; and so far as they are applicable to the 24-Pergunnahs, Nuddea, Jessore, Dacca Jelalpore, and Backergunge, by s. 2, Reg. XXIII of 1817: and were absolutely repealed by cl. 2, s. 2, Reg. II of 1819. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—S. 18. In s. two, cl. *second*, the words and figures "and proceeded in it, as required by s. XIV, Reg. III, 1793." In s. 35, the words "and also to the Provincial Court of Appeal of the Division" and "to the Provincial Court of Appeal of the Division," and "Provincial Court of Appeal or." In s. 42, the second and third sentences. In s. 43, the first four words. S. 23 was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* This Reg. is in force in the Sonthal Pergunnahs, see Note to page 1. It is also in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, see Schedule IV, Act XV of 1874.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XX (15 SECTIONS).—*A Regulation for empowering the Zillah and City Courts, the Provincial Courts of Appeal, and the Sádr Diwání Adálat, and the Nizamut Adálat, to propose Regulations regarding matters coming within their cognizance.* (Passed 1st May.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXI (8 SECTIONS).—*A Regulation for establishing in each Zillah an office for keeping the Records in the native languages which relate to the Public Revenue, and prescribing Rules for the conduct of the keepers of the Records.* (Passed 1st May.)	The whole Reg. was repealed by s. 1, Act XII of 1873, save as therein provided.
XXII (39 SECTIONS).—*A Regulation for re-enacting, with Alterations and Amendments, the Regulations passed by the Governor-General in Council on the 7th December 1792, for the establishment of an efficient Police throughout the country.* (Passed 1st May.)	S. 2 was modified in its application to the Jungle Mehals of Cuttack by s. 5, Reg. XVIII of 1805. S. 7 was repealed in part by s. 11, Reg. IX of 1807. Ss. 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, and 21 were repealed by cl. 1, s. 2, Reg. XX of 1817. So much of ss. 10 and 16 as respects Darogahs or other subordinate officers of Police, was repealed by cl. 2, s. 2, *idem.* Ss. 10, 16, 22, 31, 32, 33, 34, and 38, save in so far as they repeal any other Reg., were repealed by Act XVII of 1862. S. 11 was modified by s. 16, Reg. IX of 1807. S. 16 was explained by s. 2, Reg. VIII of 1822. S. 18 was repealed in part by s. 14, Reg. XVI of 1810. Ss. 24, 25, 26, 27, 28, 30, 35, 36, and 39 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much of ss. 26, 28, 29, 31, 32, 34, 36, 38, and 39 as defines the duties of the City Kotwal, was repealed by s. 2, Reg. XIII. of 1814. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXIII (39 SECTIONS).—*A Regulation for raising an annual fund for defraying the expense of the Police Establishments, entertained under Regulation XXII of* 1793. (Passed 1st May.)	The whole Reg. was repealed by s. 2, Reg. VI of 1797.
XXIV (17 SECTIONS).—*A Regulation for re-enacting, with Modifications, the Rules passed by the Governor-General in Council on the 10th June* 1791, *for determining the continuance or discontinuance of the Pensions heretofore paid by the proprietors and farmers of land, but included in the Jumma, or Revenue payable to Government at the Decennial Settlement, and also the Pensions heretofore paid from the Sayer abolished.* (Passed 1st May.)	S. 5 was expressly superseded by s. 3, Reg. XXII of 1806. Ss. 15 and 16 were repealed by cl. 1, s. 5, Reg. XI of 1813. The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XXV (29 SECTIONS).—*A Regulation for the Division of Estates paying Revenue to Government, and for allowing two or more proprietors of shares of an estate to hold their shares as a joint undivided estate.* (Passed 1st May.)	This Reg. was modified by ss. 12 and 13, Reg. I of 1801. Cl. 1, s. 4, was repealed by s. 2, Reg. V of 1810. S. 12 was modified by cl. 1, s. 5, Reg. V of 1810. The period allowed for the discovery of fraud, &c., by s. 25, was extended to ten years by Reg. XI of 1811. The whole Reg. was repealed by s. 2, Reg. XIX of 1814.
XXVI (3 SECTIONS).—*A Regulation for extending the term of Minority of Mahomedan and Hindú proprietors of land paying Revenue to Government to the expiration of the eighteenth year.* (Passed 1st May.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXVII (12 SECTIONS).—*A Regulation for re-enacting, with Alterations and Modifications, the Rules passed by the Governor-General in Council on the 11th June and 28th July 1790, and subsequent dates, for the resumption and abolition of the Sayer or internal Duties and Taxes throughout Bengal, Bahar, and Orissa, and for adjusting and paying the deductions and compensations directed to be granted to the proprietors and farmers of estates paying Revenue to Government, and the holders of property exempt from the payment of Revenue to Government, on account of the Duties and Taxes abolished.* (Passed 1st May.)	So much of s. 4 as provides for the continuance of the duties levied on pilgrims at Gya and other places of pilgrimage was repealed by s. 1, Act X of 1840. Such parts of this Reg. as declare the holders of Malguzárí and Lákhiraj lands entitled to a compensation on account of the abolition of the Sayer were repealed by Reg. VI of 1811 as to claims not preferred before the passing of the latter Reg. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXVIII (7 SECTIONS).—*A Regulation for prohibiting British Subjects (excepting King's Officers serving under the Presidency of Fort William, and the Civil Covenanted Servants of the Company and their Military Officers), residing at a greater distance from Calcutta than ten miles, unless they render themselves amenable to the Courts of Díwání Adálat in Civil Suits which may be instituted against them by any of the descriptions of persons mentioned in Section 7, Regulation III, 1793, and for enabling British Subjects to recover any demands recoverable under the Regulations, which they may have upon such persons.* (Passed 1st May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXIX (33 SECTIONS).—*A Regulation for re-enacting, with Alterations and Amendments, the Rules passed on the 10th of December 1788, and subsequent dates, for the conduct of the Salt Agents and all persons employed or concerned in the provision of Salt on account of Government.* (Passed 1st May.)	The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby. Cl. 7, s. 20, was repealed by cl. 1, s. 2, Reg. XX of 1817.
XXX (11 SECTIONS).—*A Regulation for preventing the illicit manufacture or importation of Salt.* (Passed 1st May.)	S. 4 was repealed by s. 6, Reg. XL of 1795. The entire Reg. was repealed by s. 2, Reg. VI of 1801.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XXXI (28 SECTIONS).—*A Regulation for re-enacting, with Modifications and Amendments, the Rules passed on the 23rd July 1787, and subsequent dates, for the conduct of the Commercial Residents and Agents, and all persons employed or concerned in the provision of the Company's investment.* (Passed 1st May.)	Ss. 2 to 18 inclusive were repealed by s. 2, Reg. IX of 1829. Cls. 4 to 10 inclusive of s. 10 were extended to certain officers of the Opium Department by s. 26, Reg. XIII of 1816. Cl. 7, s. 10, was repealed by cl. 1, s. 2, Reg. XX of 1817. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXXII (6 SECTIONS).—*A Regulation for enacting into a Regulation the terms of the Contracts concluded for the provision of Opium on account of Government in the Provinces of Bengal, Bahar, and Orissa, from the 1st September 1793, to the 31st August 1797, and for preventing illicit trade in that article.* (Passed 31st May.)	The whole Reg. was repealed, except so far as it repeals the whole or part of any other Reg., by s. 1, Act XIII of 1857.
XXXIII (15 SECTIONS).—*A Regulation for re-enacting, with Modifications, the Rules passed on the 11th February and 21st August 1791, for repairing the Embankments kept in repair at the public expense, and for encouraging the digging of Tanks or Reservoirs and Watercourses, and making Embankments.* (Passed 1st May.)	Ss. 2 to 7 inclusive were repealed by s. 2, Reg. VI of 1806. The whole Reg. was repealed by s. 2, Act XXVI of 1871, save as therein provided.
XXXIV (20 SECTIONS).—*A Regulation for re-enacting, with Modifications, the Rules passed on the 16th April 1790, and subsequent dates, for levying a tax upon Intoxicating Liquors and Drugs, and for preventing the illicit manufacture and vend of them.* (Passed 1st May.)	Ss. 12 and 13 were repealed by s. 2, Reg. I of 1808. S. 16 was in part repealed by s. 2, Reg. XX of 1806. S. 20 was repealed by s. 2, Reg. LI of 1793. The whole Reg. was repealed by s. 2, Reg. X of 1813.
XXXV (28 SECTIONS).—*A Regulation for re-enacting, with Amendments, the Rules passed on the 20th June, 24th October, and 31st November 1792, and subsequent dates, for the reform of the Gold and Silver Coin in Bengal, Bahar, and Orissa; for prohibiting the currency of any Gold or Silver Coin in those provinces but the nineteenth sun sicca rupee and the nineteenth sun old mohur and their respective divisions and sub-divisions into halves and quarters; and for preventing the counterfeiting, defacing, or debasing of the coin.* (Passed 1st May.)	So much of s. 2 as fixes the weight and standard of the nineteenth sun sicca rupee and gold mohur was repealed by cl. 1, s. 1, Reg. XIV of 1818. Ss. 4, 5, and 6 were modified by cl. 1, s. 2, Reg. II of 1812. S. 13 was in part repealed by s. 3, Reg. II of 1812. Ss. 18, 19, 20, and 23 were modified by Regs. VI of 1794, LIX of 1795, III of 1799, and LIV of 1803. S. 20, and part of s. 21, were repealed by s. 2, Reg. XIII of 1807. S. 24 was repealed by cl. 1, s. 5, Reg. II of 1812. S. 26 was repealed by s. 4, Reg. II of 1812. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XXXVI (16 Sections).—*A Regulation for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property.* (Passed 1st May.)	Ss. 2 and 14 were modified by s. 1, Act XXX of 1838. So much of s. 2 as requires a Register appointed under Act XXX of 1838 to take the oaths of office before the Zillah Judge, was repealed by Act XXIX of 1856. S. 8 was in part repealed by cl. 1, s. 6, Reg. XX of 1812. S. 15 was repealed in the Provinces subject to the Lieutenant-Governor of Bengal, by s. 1, Act IX (B. C.) of 1862: and part of s. 14 was repealed in the same by s. 12, *idem*. See Act XI of 1851 as to the custody of Registers of Deeds. The whole Reg., save in so far as it repeals any prior Reg., &c., was repealed by s. 1, Act XVI of 1864. (See Schedule.)
XXXVII (42 Sections).—A Regulation for re-enacting, with Modifications, the Rules passed on the 23rd April 1788 and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altamgah, Jaghír, and other lands exempt from the payment of public revenue under grants termed badsháhí or royal; and for determining when certain grants of that description shall be considered to have expired, and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid. (*Passed 1st May.*)	Such parts of this Reg. as require a specification of the names of villages or other sub-divisions in the Registers thereby prescribed, were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of the measurement or rents of land were repealed by s. 12, *idem*. Such parts as require counterparts of the Registers to be prepared in the Bengalí and Hindustaní languages, and copies to be sent to the Civil Courts, were repealed by s. 15, *idem*. This Reg. was modified (as to the occupant of resumed lands being retained in possession) by s. 5, Reg. XIII of 1825. It was also modified by s. 1, Reg. XIV of 1825. See also Regs. II of 1819, IX of 1825, and III of 1828. Ss. 7, 8, 9, and 11 were repealed by s. 2, Reg. V of 1813, so far as respects the District of Cuttack and the Pargana of Puttaspore and its dependencies. Ss. 7. 8, 9, 11, and 14, so far as they are applicable to Bahar, Bhaugulpore, and Purnea, were repealed by s. 2, Reg. XI of 1817: and so far as they are applicable to the 24-Pergunnahs, Nádia, Jessore, Dacca Jelalpore, and Backergunge, by s. 2, Reg. XXIII of 1817: they were absolutely repealed by cl. 2, s. 2, Reg. II of 1819. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 10, the words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," and the words "in the event of their ordering the cause to be appealed to the Provincial Court and of its being given against them therein;" and the words "in both cases." Ss. 13, 25 and 34. In s. 17, the words "every five years." In s. 28, the words "of the five years."

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XXXVII.—(*Continued.*)	In s. 30, the words "and also to the Provincial Court of Appeal of the division," "and to the Provincial Court of Appeal of the division" and "Provincial Court of Appeal or." In s. 37, the last two sentences. In s. 39, the words and figures "which is to be formed in each of the Zillahs in Bengal, Bahar, and Orissa, at the commencement of the Bengal, Fussily, and Willaity year 1207, and at the commencement of every succeeding five years," and the word "five." This Reg. is in force in the Sonthal Pergunnahs, see Note to page 1. It is also in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, see Schedule IV, Act XV of 1874.
XXXVIII (6 Sections).—A Regulation for re-enacting, with Modifications, such part of the Rule passed on the 27th June 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue, lending money to zemindars, independent talúkdars or other actual proprietors of land, or dependent talúkdars, or farmers of land holding farms immediately of Government, or the under-farmers or raiats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties; and for re-enacting, with Alterations, the existing Rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings for carrying on manufactures or other purposes, without the sanction of the Governor-General in Council. (*Passed 1st May.*)	So much of s. 1 as relates to Europeans purchasing or holding land, and ss. 3, 4, 5, and 6 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q.v.* In s. 2, the words "and City" and the words the "Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts," were repealed by s. 1, Act XVI of 1874, save as therein provided. This Reg. is in force in the Sonthal Pergunnahs, see Note to page 1. It is also in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts, see Schedules IV and V of Act XV of 1874.
XXXIX (11 Sections).—*A Regulation for the Appointment of the Cázi-al-Cozâat or head Cázi of Bengal, Bahar, and Orissa, and the Cázis stationed in the several districts, and prescribing their respective duties.* (Passed 1st May.)	The whole Reg, save in so far as it repeals any other Reg., &c, was repealed by Act XI of 1864.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XL (27 SECTIONS).—*A Regulation for granting Commissions to Natives to hear and decide Civil Suits for sums of money or personal property of a value not exceeding fifty sicca rupees, and prescribing Rules for the trial of the suits and enforcing the decisions which may be passed upon them.* (Passed 1st May.)	Cl. 6, s. 5, was in part repealed by cl. 1, s. 12, Reg. XLIX of 1803. Cl. 5, s. 9, was repealed by cl. 1, s. 16, Reg. XLIX of 1803. Ss. 15, 16, 17, and 18 were repealed by s. 2, Reg. VII of 1829. The whole Reg. was repealed by s. 2, Reg. XXIII of 1814.
XLI (21 SECTIONS).—*A Regulation for forming into a regular Code all Regulations that may be enacted for the internal government of the British Territories in Bengal.* (Passed 1st May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XLII (65 SECTIONS).—*A Regulation for re-enacting, with Modifications, the existing Rules for the collection of the Government and Calcutta Customs.* (Passed 1st May.)	Ss. 1 to 20 inclusive were repealed by s. 2, Reg. XI of 1801. The Rules for levying Calcutta Customs or Town Duties in ss. 21 to 65, were repealed by s. 2, Reg. XXXIX of 1795. Ss. 34 and 35 were repealed by s. 6, Reg. XL of 1795. The whole Reg. was repealed by cl. 2, s. 2, Reg. IX of 1810.
XLIII (32 SECTIONS).—*A Regulation for re-enacting, with Modifications, the Rules passed on the 25th February 1793, for granting lands to invalided Native Officers and Private Soldiers.* (Passed 1st May.)	The period of *seven* years in cl. 7, s. 5, was extended to *ten* years by s. 2, Reg. LVI of 1795. The whole Reg., with the exception of s. 33, was repealed by s. 2, Reg. I of 1804 (see ss. 19 and 27 of this latter Reg.) The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XLIV (8 SECTIONS). — *A Regulation for prohibiting the fixing the jumma of dependent Talúks, or granting leases or páttahs for a term exceeding ten years; and in cases of lands being disposed of at public sale for the discharge of arrears of the public revenue, for rendering null and void all engagements (with certain exceptions) subsisting between the defaulting proprietor and his dependent talúkdars, under-farmers, and raiats, for the payment of rent or revenue on account of the lands so sold.* (Passed 1st May.)	S. 2 was repealed by s. 2, Reg. V of 1812. Ss. 3 and 4 were repealed by s. 3, Reg. XVIII of 1812. S. 5 was modified by s. 9, Reg. I of 1801. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XLV (18 SECTIONS).—*A Regulation for disposing of Malguzári and Lákhiraj lands at public sale, pursuant to decrees of the Courts of Justice.* (Passed 1st May.)	Such parts of this Reg. as require sales of land in execution of decrees to be made by the Collectors were modified by cl. 1, s. 2, Reg. VII of 1825. S. 10 was modified by s. 5, Reg. I of 1801. The whole Reg., together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XLVI (6 SECTIONS).—*A Regulation for admitting persons of different descriptions to sue in the Courts of Civil Judicature as Paupers.* (Passed 1st May.)	Modified by Reg. III of 1802, and repealed by s. 2, Reg. XXVIII of 1814.
XLVII (6 SECTIONS).—*A Regulation for providing for differences of opinion between the Judges of the Provincial Courts of Appeal and Courts of Circuit, and prescribing Rules regarding other matters connected with their official situations.* (Passed 1st May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XLVIII (30 SECTIONS).—A Regulation for forming a Quinquennial Register of the landed estates in Bengal, Bahar, and Orissa subject to the payment of revenue to Government, and of the amount of the fixed annual revenue payable to Government from each estate. (*Passed 1st May.*)	Such parts of this Reg. as require a specification of the names of villages or other sub-divisions in the Registers thereby prescribed, were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of the measurement or rents of land were repealed by s. 12, *idem.* Such parts as direct counterparts of the Registers to be prepared in the Bengalí and Hindustaní languages, and copies to be sent to the Civil Courts, were repealed by s. 15, *idem.* The definition of "estate" in s. 2 was explained by s. 13, *idem.* Cl. 2, s. 2, was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 2, cl. *First*, the words "every five years." In ss. 10, 11, 13, 16, 17, 19, 21, 23, 25, 28, 29, and 30, the word "quinquennial," wherever it occurs. In s. 10 the words "every" and "five." In s. 16 the word "five." In s. 18, the words "and also to the Provincial Court of Appeal of the division," and "to the Provincial Court of Appeal of the division in which it may be included" and "Provincial Court of Appeal or." In s. 19, the words "at the end of every five years." S. 22. In s. 24, cl. *Second.* In the same section, cl. *Fifth*, the words and figures "Regulation XXV, 1793, that Regulation directing that the division and union of all estates are to be made under." In the same section, cl. *Seventh.* In s. 26, the last two sentences. S. 27. In s. 29, the words and figures "at the commencement of the Bengal, Fussily, and Willaity year 1207, and at the commencement of every succeeding five years." This Reg. is in force in the Sonthal Pergunnahs, see Note to page 1. It is also in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, see Schedule IV, Act XV of 1874.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1793.	
XLIX (6 SECTIONS).—*A Regulation for preventing affrays respecting disputed boundaries.* (Passed 28th June.)	Amended by s. 2, Reg. I of 1822, and modified by s. 2, Reg. XV of 1824. The whole Reg. was repealed, together with any Regs. that extend it to any places within the Presidency of Bengal, by s. 1, Act IV of 1840.
L (6 SECTIONS).—*A Regulation for empowering the Court of Wards to exempt female proprietors whom they may deem competent to the management of their own estates from the operation of Regulation X of 1793, and for modifying certain other Rules contained in that Regulation.* (Passed 6th December.)	The whole Reg., so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B. C.) of 1870. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
LI (3 SECTIONS). — *A Regulation for punishing persons convicted of the illicit manufacture or vend of Intoxicating Liquors or Drugs, who may be unable to pay the penalty prescribed in Regulation XXXIV, 1793, and for defining more accurately the amount of the penalty to be exacted for such offences.* (Passed 27th December.)	The whole Reg was repealed by s. 2, Reg. X of 1813.
1794.	
I (7 SECTIONS).—*A Regulation for extending the penalties prescribed by Regulation LI, 1793, for the illicit manufacture or vend of Intoxicating Liquors or Drugs, to all other intoxicating articles for the making or vending of which a licence is required to be taken out; and for giving to informers one moiety of the amount of the penalties which may be levied from persons convicted of making or selling any such articles without a licence: and prescribing Rules for the speedy apprehension and trial of persons charged with such offences.* (Passed 24th January.)	The whole Reg. was repealed by s. 2, Reg. X of 1813.
II (2 SECTIONS).—*A Regulation for postponing the operation of Section 61, Regulation VIII, 1793, in the Zillah of Boglepore to the end of Kartic 1201 Bengal era.* (Passed 14th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v*
III (22 SECTIONS).—A Regulation for exempting proprietors of land [with certain exceptions] from being confined for Arrears of Revenue, and for prescribing the process by which Tehsildars are to demand payment of Arrears; and for enabling the Collectors to recover from native officers employed under them public money or papers which they may embezzle or retain;	S. 2 was repealed by s. 1, Act XII of 1841. Ss. 4, 5, 6, 7, 9, and 10 were repealed by s. 22, Reg. VII of 1799. S. 8 was repealed by s. 2, Act XXVI of 1871, save as therein provided. S. 14, so far as it relates to the Lower Provinces of Bengal, was repealed by s. 29, Act VII (B. C.) of 1868. The whole Reg., except ss. 12, 13, 16, 17, 18, 19 and 20; and in s. 13, the words and figures "by section III, Regulation XIV, 1793," were repealed

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1794.	
III.—(*Continued.*)	
and for expediting the trial of causes relating to the Public Revenue or the Rents of individuals. (*Passed 14th March.*)	by s. 1, Act XVI of 1874, save as therein provided. S. 22 was repealed by s. 1, Act XII of 1873, save as therein provided. This Reg. is in force in the Sonthal Pergunnahs, see Note to page 1. It is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts, see Schedule IV, Act XV of 1874.
IV (7 SECTIONS).—*A Regulation for exempting the part of the Zillah of Ramgur, included in the Súbah of Bahar, from the operation of the Rules in Regulation VIII*, 1793, *regarding the appointment of Patwaris and the delivery of pattahs to the raiats; and for postponing the operation of Section* 61, *Regulation VIII.* 1793, *in the Zillahs of Rajshahye, Purneah, and the Zemindarry of Nadia; and for providing for cases in which raiats may omit or refuse to take out the prescribed pattahs when tendered to them; and for determining any disputes that may arise between the proprietors and farmers of land regarding the rates of pattahs that are to be granted pursuant to Regulation VIII*, 1793, *or the rates at which pattahs expiring or becoming cancelled under Regulation XLIV*, 1793, *are to be renewed.* (Passed 27th March.)	Such parts of this Reg. as require proprietors of land to prepare forms of *pattahs* to be revised by the Collectors, and declares engagements for rent otherwise contracted to be void, were repealed by s. 3, Reg. V of 1812. S. 3 was repealed by s. 2, Reg. XII of 1817, so far as regards the Ceded and Conquered provinces, Bahar, Benares, Cuttack, and Puttuspore. So much of this Reg. as was still in force, save in so far as it repeals any other Reg., &c., was repealed by s. 1, Act X of 1859.
V (3 SECTIONS).—*A Regulation for restricting the Súdr Díwání Adálat and the Provincial Courts of Appeal from admitting Appeals from decisions passed by any of the Courts of Díwání Adálat, heretofore denominated Courts of Mofussil Díwání Adálat, between the 6th April* 1781, *and the 1st May* 1793, *that were declared to be final by the Regulations for the Administration of Justice which existed during that period.* (Passed 30th May.)	The whole Reg. was repealed by Act VIII of 1868 save as provided in s. 1, *idem*, *q. v.*
VI (2 SECTIONS).—*A Regulation for postponing to the 10th April* 1795 *the operation of such parts of Sections* 18, 19, 20 *and* 23, *Regulation XXXV*, 1793, *as regard the Silver Coin.* (Passed 30th May.)	Such parts of this Reg. as relate to ss. 20 and 21, Reg. XXXV of 1793, were repealed by s. 2, Reg. XIII of 1807. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VII (14 SECTIONS).—*A Regulation for enabling one Judge of Circuit to hold the Courts for the half-yearly and monthly Gaol Deliveries; and for empowering one of the Judges of the Provincial Court of Appeal in each Division to remain at the Súdr Station to transact certain parts of the business of the Court whilst the other Judges are making the Circuits, and for providing against the absence or indisposition*	S. 12 was repealed by s. 2, Reg. I of 1807. S. 14 was explained by s. 2, Reg. IV of 1823. The whole Reg., save in so far as it repeals any prior Reg. or Act, was repealed by Act XVII of 1862, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1794.	
VII.—(*Continued.*)	
of the Judges or their Law Officers and against Vacancies in the Judicial and Law Appointments. (Passed 17th October.)	
VIII (13 SECTIONS).—*A Regulation for extending and defining the powers given by Section 6, Regulation XIII, 1793, to the Registers of the Zillah and City Courts to try and decide causes referred to them by the Judges of their respective Courts, and for empowering the Zillah and City Courts in certain cases to refer Rent and Revenue Accounts to the Collectors for Report.* (Passed 14th November.)	S. 2 and the corresponding enactments, which authorize the reference of Civil Suits for trial to the Registers attached to the several Zillah and City Courts, were repealed by cl. 1, s. 29, Reg. V of 1831. S. 6 was repealed by cl. 3, s. 6, Reg. XLIX of 1803. S. 7 was repealed by s. 2, Reg. XXXVI of 1795. Ss. 9 and 11 were modified by s. 2, Reg. LIV of 1795. S. 11 was in part repealed by s. 23, Reg. XLIX of 1803. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
1795.	
I (4 SECTIONS).—A Regulation for fixing in perpetuity the Revenue assessed on the Lands in the Province of Benares; for the more general restoration of the ancient Zemindars; and for extending to the Province of Benares the Rules prescribed in Regulation XLI, 1793. (*Passed 27th March.*)	
II (28 SECTIONS).—*A Regulation for re-enacting, with Modifications and Amendments, the Rules regarding the temporary and Permanent Settlements of the Revenue in the Province of Benares.* (Passed 27th March.)	Cl. 6, s. 17, was modified by s. 2, Reg. VII of 1828. S. 24 was in part repealed by s. 2, Reg. VII of 1807, which also repeals such portions of any Reg. in force as require security to be taken from the Zemindars in Benares. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
III (17 SECTIONS).—*A Regulation for re-enacting, with Modifications and Amendments, the Rules for the Collection of the Customs in the Province of Benares.* (Passed 27th March.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
IV (10 SECTIONS).—*A Regulation for prohibiting the Collection of internal Duties in the Province of Benares.* (Passed 27th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
V (36 SECTIONS).—*A Regulation prescribing Rules for the conduct of the Collector of the Public Revenue in the Province of Benares.* (Passed 27th March.)	So much of this Reg. as relates to the appointment and duties of *Diwán* was repealed by s. 2, Reg. XV of 1813. S. 8 was modified by s. 2, Reg. VII of 1828. S. 12 was repealed by Act XXV of 1854. S. 13 was repealed in part by s. 3, Reg. V of 1804. S. 17 was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* S. 26 was repealed by cl. 1, s. 2, Reg. III of 1822. S. 36 was repealed by s. 2, Act XXVI of 1871, save as therein provided. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
VI (53 SECTIONS).—*A Regulation prescribing the process by which the Collector and the Tehsildars are to realize the Public Revenue payable from the Lands in the Province of Benares.* (Passed 27th March.)	Ss. 7 and 19 were explained and modified by s. 2, Reg. XVIII of 1814. So much of ss. 7 and 31 as relates to the issue of dustuks, the attachment of estates and the selection of lands for sale, was repealed by cl. 2, s. 2, Reg. XI of 1822. Ss. 12 and cl. 5, s. 17, were repealed by cl. 1, s. 2, Reg. VII of 1830. Ss. 19, 29, 32, 33, and 34 were repealed by cl. 1, s. 2, Reg. XI of 1822. S. 46 was repealed by s. 2, Act XXVI of 1871, save as therein provided. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
VII (12 SECTIONS).—*A Regulation for establishing a Court of Díwání Adálat, or Court of Judicature, for trying Civil Suits in the first instance, at the City of Benares, and at Mirzapúr, Gazípúr, Juanpúr, in the Province of Benares; and for defining the jurisdiction and powers of those Courts.* (Passed 27th March.)	Ss. 7, 9, 10, 11, except so far as it extends s. 21 of Reg. III of 1793, and s. 12, were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. S. 8 was modified by ss. 2 and 3 of Reg. II of 1805: and was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much as had not been previously repealed was repealed by s. 2, Act VI of 1871 (see Schedule).
VIII (10 SECTIONS).—*A Regulation for extending to the Province of Benares, with Alterations and Modifications, Regulation IV of 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Díwání Adálat established in the several Zillahs and in the Cities of Patna, Dacca, and Múrshedabad;"*	S. 2 was modified by s. 2, Reg. VI of 1830, and repealed by Act X of 1861, in so far as it extends the provisions of Reg. IV of 1793, which are repealed by the same Act X of 1861. Part of cl. 2, s. 3 (relating to the decision being according to the religion of the defendant) was repealed by s. 8, Reg. VII of 1832.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
VIII.—(*Continued.*)	
and for exempting the Rajah of Benares, and the Babús of his family, and certain bankers, when defendants, from giving the security required from other defendants. (Passed 27th March.)	So much of s. 3 as declares that in the respective cases mentioned in the said section the Mahomedan and Hindú Law Officers of the Courts are to attend and expound the law, save in so far as it repeals any prior Reg., &c., was repealed by Act XI of 1864. The whole section was repealed by s. 2, Act VI of 1871 (see Schedule). Ss. 5, 6, 7 and 8 were modified by s. 3, Reg. IX of 1799. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
IX (12 SECTIONS).—*A Regulation for establishing a Provincial Court of Appeal in the Province of Benares for hearing Appeals from decisions passed in the City Court and the Zillah Courts in that Province; and defining its powers and duties, and prescribing Rules for receiving and deciding upon Appeals and other causes of which it is declared to have cognizance.* (Passed 27th March.)	So much of s. 2 as provides that the Provincial Courts shall be superintended by three Judges was repealed by s. 2, Reg. V of 1814. The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg.
X (10 SECTIONS).—*A Regulation for empowering the Sádr Díwání Adálat to receive and decide upon Appeals from decisions of the Provincial Court of Appeal established in the Province of Benares; and for defining the jurisdiction, powers, and authorities of the Sádr Díwání Adálat in that Province.* (Passed 27th March.)	So much of this Reg. as extends the powers of the Sádr Díwání and Nizámut Adálat at Calcutta to the province of Benares was repealed by s. 1, Reg. VI of 1831. Ss. 1, 4, and 10 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* S. 2, in so far as it extends the provisions of Reg. VI of 1793, which are repealed by Act X of 1861, and s. 3, were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XI (3 SECTIONS).—*A Regulation for extending, with Modifications, to the Province of Benares, Regulation XII, 1873, entitled "A Regulation for the appointment of the Hindú and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature," and for appointing a Pandit or Pandits to the Provincial Court of Circuit for the Division of Benares, to expound the Hindú Law in certain cases cognizable by that Court.* (Passed 27th March.)	Explained by cl. 1, s. 6, Reg. XVIII of 1817. The whole Reg., save in so far as it repeals any prior Reg., &c., was repealed by Act XI of 1864.
XII (2 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation XIII of 1793, entitled "A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective duties."* (Passed 27th March.)	This Reg. was explained by cl. 1, s. 6, Reg. XVIII of 1817. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XIII (2 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation VII of 1793, entitled "A Regulation for the appointment of Vakíls or Native Pleaders in the Courts of Civil Judicature in the Provinces of Bengal, Bahár, and Orissa," with an alteration exempting the Rajah of Benares and the Babás of his family, and certain bankers, when plaintiffs or defendants, from giving the security for the payment of the fees of the Vakíls required from other plaintiffs or defendants.* (Passed 27th March.)	The whole Reg. was repealed by s. 2, Reg. XXVII of 1814.
XIV (2 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation XLIV of 1793, entitled "A Regulation for preventing affrays respecting disputed boundaries," and for applying the Rules in that Regulation to disputes regarding Tanks or Reservoirs, Wells, and Watercourses, in the Province of Benares.* (Passed 27th March.)	This Reg. was modified by s. 2, Reg. XV of 1824. It was repealed, together with any Regs. that extend it to any places within the Presidency of Bengal, by s. 1, Act IV of 1840.
XV (3 SECTIONS).—A Regulation for extending to the Province of Benares Regulation XVI of 1793, entitled "A Regulation for referring Suits to Arbitration, and submitting certain cases to the decision of the Názim, with the exception of Section 10, and for referring certain cases to the decision of the Rajah of Benares." (*Passed 27th March.*)	This Reg. was modified by s. 2, Reg. VII of 1828. Such parts of s. 2, as prohibit Vakíls from being employed as arbitrators, were repealed by s. 2, Reg. XXVII of 1814: and the whole section was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any former Reg.
XVI (24 SECTIONS).—*A Regulation for the apprehension and trial of persons charged with crimes and misdemeanors in the Province of Benares: for enabling one of the Judges in his capacity of Judge of the Provincial Court of Appeal to transact certain parts of the business of that Court whilst the other two Judges, as Judges of Circuit, are making the Circuits: and for providing against the absence or indisposition of any of the Judges or their Law Officers, and against Vacancies in the Judicial or Law Appointments.* (Passed 27th March.)	Such parts of this Reg. as extend the powers of the Sádr Díwání and Nizamut Adálat at Calcutta to the province of Benares and the Ceded and Conquered provinces, were repealed by s. 2, Reg. VI of 1831. Ss. 2 and 3 were modified as to Judges holding the office of Magistrate, by cl. 1, s. 2, Reg. XVI of 1810. S. 4 was repealed in part by s. 2, Reg. IX of 1807, and explained by s. 2, Reg. VIII of 1822. So much of cl. 1, s. 4, as extends the provisions of Reg. IX of 1793, which are repealed by Act XVII of 1862 (*q. v.*); also cls. 2, 4, and 5; and the following sections of this Reg., were repealed by Act XVII of 1862, save in so far as they repeal any prior Reg. Ss. 19 and 20 were explained by s. 5, Reg. II of 1804. S. 23 was repealed by s. 15, Reg. XVII of 1817. So much of this Reg. as had not been previously repealed, was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XVII (36 SECTIONS).—*A Regulation for the establishment of an efficient Police in the Province of Benares.* (Passed 27th March.)	So much of this Reg. as places the Police in Benares under the Tehsildars, and relates to the Police duties of the latter, was repealed by cl. 1, s. 2, Reg. XIV of 1807. S. 7 was repealed in part by s. 11, Reg. IX of 1807. S. 7, 8, 9, 11, 12, 13, 14, 15, 17, 18. 19, 20 and 25 were repealed by cl. 1, s. 2, Reg. XX of 1817. S. 9 was modified by cl. 1, s. 15, Reg VIII of 1822. So much of ss. 10 and 15 as respects darogahs and other subordinate officers of Police, was repealed by cl. 2, s. 2, Reg. XX of 1817. Ss. 10, 20, 29, 30, 31, 32 and 35, save in so far as they repeal any other Reg., &c., were repealed by Act XVII of 1862, *q. v.* S. 11 was modified by s. 16, Reg. VIII of 1822. S 15 was explained by s. 2, Reg. VIII of 1822. S. 17 was repealed by s. 14, Reg. XVI of 1810. S. 22 and following sections were modified by cl. 2, s. 10, Reg. XIV of 1807. So much as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVIII (2 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation XVIII of 1793, entitled "A Regulation for preserving complete the Records of the Civil and Criminal Courts of Judicature, and requiring the Zillah and City Courts to transmit Monthly Reports of the Suits decided by them to the Provincial Courts of Appeal, and directing the Provincial Courts of Appeal to submit Monthly Reports of the Appeals and Causes decided by them to the Sádr Díwání Addlat."* (Passed 27th March.)	The whole Reg. was repealed by s. 1, Act XII of 1873, save as therein provided.
XIX (28 SECTIONS).—*A Regulation for forming a Quinquennial Register of the Landed Estates in Benares subject to the payment of revenue to Government, and the amount of the fixed annual revenue payable to Government from each estate.* (Passed 27th March.)	Such parts of this Reg. as require a specification of *the names of villages or other subdivisions* in the Registers prescribed thereby, were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of *the measurement or rents of land* were repealed by s. 12, *idem.* The definition of "*estate*" in this Reg. is explained by s. 13, *idem.* Such parts as direct *counterparts* to be prepared in the Bengalí and Hindustání languages and *copies* to be sent to the Civil Judges, were repealed by s. 15, *idem.* So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XX (19 Sections).—*A Regulation for disposing of Malguzárí and Lakhiraj lands at public sale pursuant to decrees of the Courts of Justice.* (Passed 27th March.)	Such parts of this Reg. as require sales of land in execution of decrees of Court to be made by the Collectors were repealed by cl. 1, s. 2, Reg. VII of 1825. The whole Reg. together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846.
XXI (13 Sections).—*A Regulation for preventing Brahmins in the Province of Benares establishing Kúrhs, wounding or killing their female relations or children or sitting dhurna: and for preventing the tribe of Rauje Kúmars in that province killing their female children.* (Passed 27th March).	So much of ss. 7 and 9 or of any other Reg. in force as exempts a Brahmin convicted of murder in Benares from a sentence of death was repealed by s. 15, Reg. XVII of 1817. Ss. 11 and 12 were explained and extended by s. 6, Reg. VIII of 1799, and repealed by s. 2, Reg. VII of 1820. The whole Reg. save in so far as it repeals any prior Reg., &c., was repealed by Act XVII of 1862, *q. v.*
XXII (96 Sections).—*A Regulation for preserving the record of the principal rules regarding the administration of justice and the Police in the Province of Benares, passed between the year* 1781, *and the period of the abolition of the office of Resident in* 1795*: and for determining what part of those rules are to be considered still in force, and for transferring the causes depending in the Courts of Judicature abolished on this date to the Courts established in lieu of them.* (Passed 27th March.)	S. 81 and s. 82 except cl. 4, were repealed by s. 15, Reg. II of 1800. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXIII (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XLVI,* 1793, *entitled "A Regulation for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as paupers."* (Passed 27th March.)	The whole Reg was repealed by s. 2, Reg. XXVIII of 1814.
XXIV (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XXVIII,* 1793, *entitled "A Regulation for prohibiting British Subjects (excepting King's Officers serving under the Presidency of Fort William, and Civil Covenanted Servants of the Company and their Military Officers) residing at a greater distance from Calcutta than ten miles, unless they render themselves amenable to the Courts of Díwání Adálat in Civil Suits, which may be instituted against them by any of the descriptions of persons mentioned in Section* 7, *Regulation III,* 1793, *and for enabling British Subjects to recover any demands recoverable under the Regulations which they may have upon such persons."* (Passed 27th March.)	The whole Reg was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XXV (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XLVII, 1793, entitled "A Regulation for providing for differences of opinion between the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and prescribing rules regarding other matters connected with their official situations."* (Passed 27th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXVI (7 Sections).—*A Regulation for extending to the Province of Benares, with Alterations, Regulation XXV, 1793, entitled "A Regulation for the division of Estates paying Revenue to Government, and for allowing two or more proprietors of shares of an Estate to hold their shares as a joint undivided Estate."* (Passed 27th March.)	This Reg. was modified by s. 15, Reg. I of 1801. The period allowed for discovery of fraud &c. by s. 2, was extended to 10 years by Reg. XI of 1811. The whole Reg. was repealed by s. 2, Reg. XIX of 1814.
XXVII (10 Sections).—A Regulation declaratory of certain reservations made by Government and of rights preserved to the proprietors of landed estates under the Permanent Settlement of the land revenue made in the Province of Benares; for allowing of the transfer or division of entire estates or portions of estates, and prescribing rules for apportioning the fixed jama on the several shares of estates, which may be divided, or portions of estates which may be transferred; and for continuing the Putwaries in the discharge of their ancient functions. (*Passed 27th March*).	So much of s. 7 as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of the decrees of the Civil Courts, together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846. S. 9 was repealed by s. 2, Reg. XII of 1817, as regards the Ceded and Conquered Provinces, Bahár, Benares, Cuttack, and Puttaspore. In s. 10, the words and figures "and printed and published in the manner prescribed in Regulation XLI, 1793," and "as referred to in Regulation II, 1795," were repealed by s. 1, Act XVI of 1874, save as therein provided.
XXVIII (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XXXVI, 1793, entitled "A Regulation for establishing a Registry for Wills and Deeds for the Transfer or Mortgage of real property."* (Passed 27th March.)	This Reg. was modified by s. 1, Act XXX of 1838. So much of s. 2 as requires Registers to take oath of office before the Sessions Judge was declared by Act XXIX of 1856 not to apply to Registers appointed under Act XXX of 1838. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by s. 1, Act XVI of 1864 (see Schedule).
XXIX (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XX, 1793, entitled "A Regulation for empowering the Zillah and City Courts, the Provincial Courts of Appeal, and the Sádr Diwání Adálat and the Nizamut Adálat, to propose Regulations regarding matters coming within their cognizance."* (Passed 27th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XXX (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XXI*, 1793, *entitled "A Regulation for establishing in each Zillah an Office for keeping the Records in the native languages which relate to the public revenue, and prescribing rules for the conduct of the keepers of the records."* (Passed 27th March.)	The whole Reg. was repealed by s. 1, Act XII of 1873, save as therein provided.
XXXI (4 Sections).—*A Regulation for extending to the Province of Benares, with Modifications, Regulation XL*, 1793, *entitled "A Regulation for granting commissions to natives to hear and decide Civil Suits for sums of money or personal property of a value not exceeding fifty sicca rupees, and prescribing rules for the trial of the suits, and enforcing the decisions which may be passed upon them."* (Passed 27th March.)	The whole Reg was repealed by s. 2, Reg. XXIII of 1814.
XXXII (4 Sections).—*A Regulation for enacting into a Regulation the terms of the contract concluded for the provision of Opium on account of Government in the Province of Benares, from the 1st September 1793 to the 31st August 1797, and for preventing illicit trade in that article.* (Passed 27th March.)	S. 3 was repealed by s. 2, Reg. XIII of 1816. The whole Reg. except in so far as it repeals any former Reg. in whole or in part, was repealed by s. 1, Act XIII of 1857.
XXXIII (10 Sections).—*A Regulation for enacting into a Regulation the rules passed relative to the cultivation and manufacture of Indigo on behalf of or by natural born British Subjects and other Europeans having the permission of Government to reside in Benares.* (Passed 27th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXXIV (14 Sections).—*A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Múlkí Treasuries in the Province of Benares.* (Passed 27th March.)	Ss. 5, 12 and 13 repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
XXXV (20 Sections).—*A Regulation for better enabling individuals to recover arrears of Rent or Revenue due to them.* (Passed 27th March.)	The whole Reg. save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859.
XXXVI (7 Sections).—*A Regulation for repealing Section 7, Regulation VIII*, 1794, *and empowering the Judges of the Zillah and City Courts to hear appeals from decisions which may be passed by their Registers under that Regulation, and rendering final the decisions of the Judges in all such appeals where the suit may be for money or personal property: for making final the decrees of the Judges of the Zillah and City Courts in appeals from decisions passed by the Native Commissioners appointed under Regulation XL*, 1793: *for rendering Serberakars or*	S. 4 was modified by s. 2, Reg. LIV of 1795, and in part repealed by cl. 1, s. 8, Reg. XLIX of 1803. S. 5 was repealed by s. 2, Reg. XXIII of 1814. The whole Reg. except s. 6, and except in so far as it repeals any other Reg. &c. was repealed by Act X of 1861 in so far as applies to the territories to which Act VIII of 1859 has been or may be extended. So much as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XXXVI.—(*Continued.*)	
Managers of joint undivided estates eligible to the office of Commissioner: for hearing and deciding suits under Regulation XL, 1793: for providing against the loss or miscarriage of the proceedings in trials referred by the Judges of Circuit to the Nizamut Adálat, or the sentences or orders of that Court on such trials: and for establishing another Court of Díwání Adálat in the districts now comprised in the Zillah of Burdwan. (Passed 27th March.)	
XXXVII (7 Sections).—*A Regulation for better enabling the Sádr Díwání Adálat to judge of the progress made by the Zillah and City Courts, and the Provincial Courts of Appeal, in determining the suits now depending before them, and also of the expedition with which suits hereafter filed may be decided.* (Passed 27th March.)	The whole Reg. was repealed by s. 2, Reg. VII of 1829.
XXXVIII (12 Sections).—*A Regulation for prescribing the payment of certain fees on the institution and trial of suits in the Courts of Civil Judicature, and on petitions presented to those Courts, and on the institution of suits before the Munsifs under Clause sixth, Section 5, Regulation XL, 1793, and for the appropriation of the fees so collected.* (Passed 10th April.)	S. 8 was repealed by s. 2, Reg. XXIII of 1814. Such parts of ss. 8, 9, 10, 11, and 12 as are applicable to paupers were repealed by s. 2, Reg. XXVIII of 1814. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXXIX (33 Sections).—*A Regulation for abolishing the Calcutta Customs or Town Duties collected under the several Sections of Regulation XLII, 1793, from Section 21 to the conclusion of the said Regulation; and for reviving, with alterations, the Government Customs formerly levied at the port of Calcutta, and discontinued on the 20th June 1788: and prescribing to what Courts individuals considering themselves aggrieved under the Regulations respecting the Government Customs in the Provinces of Bengal, Bahár, or Orissa by the act of any Collector of the said Customs or his officers or by any act or order of the Board of Trade or the Governor-General in Council, are to apply in the first instance for redress.* (Passed 22nd May.)	Cl. 4 of s. 4, and cl. 4 of s. 5, were modified by s. 4, Reg. XI of 1800. Cl. 5 of s. 4 was modified by s. 3, *idem.* Cl. 7 of s. 5 was extended by s. 21, *idem.* Cl. 13 of s. 5 was explained by s. 18, *idem.* Cl. 16 of s. 6 was in part repealed by cl. 1, s. 2, Reg. XIX of 1806. S. 11 was modified by s. 19, Reg. XI of 1800. S. 17 was modified by s. 4, Reg. LVII of 1795. Cl. 1, s. 17, was repealed by s. 8, Reg. XI of 1800. Cl. 5, s. 17, was extended by s. 22, *idem.* Cl. 9, s. 17, was modified by s. 20, *idem.* Cl. 1, s. 22, was modified by s. 26, *idem.* The whole Reg. was repealed by cl. 1, s. 2 of Reg. IX of 1810.
XL (10 Sections).—*A Regulation for modifying such parts of Section 3 and Clause third Section 8, and Section 9, Regulation XXX, 1793, as relate to the rewards payable on information being given of the illicit manufacture, transportation, or importation of salt; and for increasing the rewards and authorising the servants of Government to benefit by them: and for modifying and altering the rules and restrictions*	The whole Reg. was repealed by s. 2, Reg. VI of 1801.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XL.—(*Continued.*)	
contained in Section 4, Regulation XXX, 1793, and Sections 34 and 35, Regulation XLII, 1793, in respect to the importation of Muscat Salt. (Passed 1st June.)	
XLI (48 Sections).—*A Regulation prescribing rules for trying the validity of the titles of persons holding or claiming a right to hold lands exempted from the payment of revenue to Government in the Province of Benares, under grants not being of the description of those termed Badshahí or royal, nor made by the Supreme power for the time being; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.* (Passed 31st July.)	Such parts of this Reg. as require a specification of the *names of villages or other subdivisions* in the Registers thereby prescribed were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of *the measurement or rents of land* were repealed by s. 12, *idem.* Such parts as direct *counterparts* of the Registers to be prepared in the Bengalí and Hindustaní languages, and *copies* to be sent to the Civil Courts, were repealed by s. 15, *idem.* This Reg. was modified by s. 1, Reg. XIV of 1825. So much of s. 10 as authorizes and requires proprietors and farmers of estates and dependent talúks, in cases of grants made exempt from the payment of revenue subsequent to the dates specified therein, to collect the rents of such land, dispossess the grantees, and reannex it to the estate or talúk in which it may be situate, was repealed by s. 28, Act X of 1859. Ss. 12, 13, 14, 16, and 19 were repealed by s. 2, Reg. XI of 1817, so far as they are applicable to the Province of Bahár and the Districts of Bhaugulpore and Purnea. They were absolutely repealed by cl. 2, s. 2, Reg. II of 1819. The whole Reg., so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XLII (42 Sections).—*A Regulation for enacting, with Modifications, the Rules for trying the validity of the titles of persons holding or claiming a right to hold Allamgah Jaghir and other lands in the Province of Benares exempt from the payment of public revenue under grants termed Badshahí or royal, or made by the Supreme power for the time being; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands, the grants for which may expire or be adjudged invalid.* (Passed 31st July.)	Such parts of this Reg. as require a specification of the *names of villages or other subdivisions* in the Registers thereby prescribed, were repealed by s. 11, Reg. VIII of 1800. Such parts as require a specification of *the measurement or rents* of land were repealed by s. 12, *idem.* Such parts as require *counterparts* to be prepared in the Bengallí and Hindustaní languages, and *copies* to be sent to the Civil Courts, were repealed by s. 15, *idem.* This Reg. was modified by s. 5, Reg XIII of 1825, as to the occupant of resumed lands being retained in possession; also by s. 1, Reg. XIV of 1825. Ss. 7, 8, 9, 11, and 14 were repealed by s. 2, Reg. XI of 1817, as far as they are applicable to the Province of Bahár and the Districts of Bhaugulpore and Purnea. They were absolutely repealed by cl. 2, s. 2, Reg. II of 1819.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XLII.—(*Continued.*)	So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XLIII (4 SECTIONS).—*A Regulation for enacting into a Regulation the Rules passed on the 18th February 1789 and 24th December 1790 for granting lands to discharged native Invalid Officers and private Soldiers in the Province of Benares.* (Passed 28th August.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XLIV (6 SECTIONS).—A Regulation for removing certain restrictions to the operation of the Hindú and Mahomedan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares. (*Passed 28th August.*)	
XLV (3 2SECTIONS).—*A Regulation for empowering Talúkdars, Zemindars, and all other descriptions of landholders and farmers of land in the Province of Benares to distrain and sell the personal property of under-farmers, raiyats, and dependent zemindars and pattidars, and (in certain specified cases) their sureties for arrears of rent or revenue: and for preventing landholders and farmers of land, in the said province, confining or inflicting corporal punishment on their under-farmers, raiyats, and dependent zemindars and pattidars, or their sureties to enforce payment of such arrears.* (Passed 28th August.)	S. 5 was repealed in part by s. 3, Reg. V of 1800. Ss. 8 and 20 were repealed in part by s. 4, *idem.* S 19 was modified by s. 10, *id.* The whole Reg. save in so far as it repeals any former Reg. &c. was repealed by s. 1, Act X of 1859.
XLVI (2 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation XXXIII, 1793, entitled "A Regulation for re-enacting, with Modifications, the Rules passed on the 11th February and 21st October 1791, for repairing the Embankments kept in repair at the public expense: and for encouraging the digging of Tanks or Reservoirs and Watercourses and making Embankments."* (Passed 28th August.)	The provisions of this Reg. corresponding to ss. 2 to 7 inclusive of Reg. XXXIII of 1793 were repealed by s. 2, Reg. VI of 1806. The whole Reg. was repealed by s. 2, Act XXVI of 1871, save as therein provided.
XLVII (10 SECTIONS).—*A Regulation for levying a tax on intoxicating liquors and drugs and for preventing the illicit manufacture or vend of them in the Province of Benares.* (Passed 28th August.)	The whole Reg. was repealed by s. 2, Reg. X of 1813.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
XLVIII (6 Sections).—*A Regulation for prohibiting Covenanted Civil Servants of the Company, employed in the administration of justice or the collection of the public revenue, in the Province of Benares, from lending money to talúkdars, zemindars, pattidars, or other actual proprietors of land, or to farmers of land holding farms immediately of Government or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned or their respective sureties: and for prohibiting in the said province Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings for carrying on manufactures, or other purposes, without the sanction of the Governor-General in Council.* (Passed 28th August.)	Ss. 3, 4, 5, and 6 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.
XLIX (3 Sections).—*A Regulation for appointing the Head Cází of the Provinces of Bengal, Bahár, and Orisa, Head Cází of the Province of Benares, and for extending to that Province the Rules contained in Regulation XXXIX, 1793, regarding the Cázís stationed in the cities, towns, and other places in the three first-mentioned provinces.* (Passed 28th August.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864.
L (8 Sections).—*A Regulation for prohibiting talúkdars, zemindars, and other proprietors of land paying revenue in the Province of Benares, from fixing the jama of dependent tenants (whether zemindars or pattidars), or granting leases or pattas for a term exceeding ten years; and in cases of lands being disposed of at public sale for the discharge of arrears of the public revenue, for rendering null and void all engagements (with certain exceptions) subsisting between the defaulting proprietor and his dependent zemindars, pattidars, under-farmers, and raiyats for the payment of rent or revenue on account of the lands so sold.* (Passed 28th August.)	S. 2 was repealed by s. 2, Reg. V of 1812. Ss. 3 and 4 were repealed by cl. 1, s. 3, Reg. XVIII of 1812. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
LI (10 Sections).—*A Regulation respecting raiyatti pattas in the Province of Benares.* (Passed 28th August.)	Ss. 9 and 10 save in so far as they repeal any former Reg. &c. were repealed by s. 1, Act X of 1859. So much as had not been previously repealed was repealed so far as relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
LII (20 Sections).—*A Regulation for licensing the importation of Salt into the port of Calcutta on ships built and fitted out within the Provinces of Bengal or Bahár, or that part of Orissa which is under the dominion of the Company, and being the property of British Subjects or of natives residing within the said provinces and subject to the Company's Government.* (Passed 28th August.)	The whole of the Rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as are specially re-enacted thereby.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
LIII (3 SECTIONS).—*A Regulation for putting a stop to the illicit trade in Opium carried on in the Province of Bengal by means of the cloths and earthen vessels termed Cappah and Dogah: and for preventing the Poppy being cultivated in the said province without the knowledge of the contractor.* (Passed 28th August.)	This whole Reg. except in so far as it repeals the whole or part of any former Reg. was repealed by s. 1, Act XIII of 1857.
LIV (2 SECTIONS).—*A Regulation for extending to the Province of Benares the Rules contained in certain Sections of Regulations VIII*, 1794, *and XXVI*, 1795, *with Modifications.* (Passed 1st September.)	This whole Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg. &c., was repealed by Act X of 1861.
LV (2 SECTIONS).—*A Regulation for prohibiting the Courts of Civil Judicature from requiring security from guardians of Disqualified Landholders, when parties in suits with their Wards under Section* 32, *Regulation X*, 1793. (Passed 1st September.)	The whole Reg. so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B.C.) of 1870. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
LVI (3 SECTIONS).—*A Regulation for allowing the heirs of Invalids, in the Provinces of Bengal, Bahár, and Orissa, to hold their land rent-free to the expiration of the tenth year from the date of the original grantee's being put in possession, in case of his dying within ten years from such date: and for providing for the absence of Invalids from their thannahs in the said provinces at the time of inspection, in consequence of permission, or from sickness or other unavoidable cause.* (Passed 1st September.)	This Reg. was repealed by s. 2, Reg. I of 1804. (See s. 2, and also s. 19 of Reg. I of 1804.)
LVII (4 SECTIONS).—*A Regulation for enacting into a Regulation certain orders issued by the Governor-General in Council for the abolition of the collection heretofore made on grain imported into Calcutta, under the denomination of "kyaulee dustúr," and for the appropriation of the proceeds of confiscated goods and merchandize at the Manjhí Custom House: and for levying the Calcutta export duties on the Calcutta price of the goods instead of the aurung price or prime cost as prescribed by Section* 17, *Regulation XXXIX*, 1795. (Passed 28th September.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
LVIII (4 SECTIONS).—A Regulation for granting to the Collectors a commission on the jama of lands which may be subjected to the payment of revenue under Section 26, Regulation XIX, and Section 21, Regu-	The whole Reg. except ss. 3 and 4, was repealed by s. 1, Act XII of 1873, save as therein provided. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1795.	
LVIII.—(*Continued.*)	
lation XXXVII, 1793, and Section 26, Regulation XLI, and Section 21, Regulation XLII, 1795: and for determining on what amount such commission and the commission granted to Collectors in cases of lands being adjudged liable to the payment of revenue in consequence of prosecutions, shall be calculated: and for requiring the Zillah and City Courts in the four provinces to transmit to the Collectors and the Board of Revenue copies of certain decrees in suits between individuals respecting the right to land exempted from the payment of revenue: and for defining, of what decrees regarding malguzarí land, the Zillah and City Courts are to furnish the Collectors and the Board of Revenue with copies under Section 9, Regulation IV, 1793, and Section 4, Regulation VIII, 1795. (*Passed 28th September.*)	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts. See Schedule IV of Act XV of 1874.
LIX (2 Sections).—*A Regulation for further postponing to the 10th April 1796 the operation of such parts of Sections 18, 19, 20, and 23, Regulation XXXV, 1793, as regard the silver coin.* (Passed 29th September.)	Such parts of this Reg. as relate to ss. 20 and 21, Reg. XXXV of 1793 were repealed by s. 2, Reg. XIII of 1807. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
LX (2 Sections).—*A Regulation for extending to the Province of Benares Regulation XXXVIII, 1795, entitled "A Regulation for prescribing the payment of certain fees on the institution and trial of suits in the Courts of Civil Judicature, and on petitions presented to those Courts and on the institution of suits before the Munsifs under Clause sixth, Section 5, Regulation XL,"* 1793. (Passed 13th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
LXI (5 Sections).—*A Regulation for determining what sicca rupees of the nineteenth Sun shall be considered as of standard weight in payments in the Provinces of Bengal, Bahár, and Orissa.* (Passed 13th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
LXII (2 Sections).—*A Regulation for withdrawing the Mint established at Múrshedabad under Regulation XXXV, 1793.* (Passed 11th December.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1796.	
I (17 SECTIONS).—*A Regulation for the trial of the hill people in the districts of Rajmahal and Boglepore for crimes and misdemeanours.* (Passed 1st April.)	Cl. 5, s. 13, was repealed by s. 2, Reg. XIV of 1810. The whole Reg. was repealed by cl. 1, s. 2, Reg. I of 1827.
II (4 SECTIONS).—*A Regulation for the guidance of the Zillah and City Magistrates in the Provinces of Bengal, Bahár, Orissa, and Benares in apprehending and bringing to trial European British Subjects charged with acts which may render them liable to a criminal prosecution.* (Passed 18th April.)	This Reg. was modified by cl. 1, s 2, Reg. XX of 1825. S. 2 was in part expressly superseded by s. 4, Reg. XV of 1806. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
III (3 SECTIONS).—*A Regulation for excluding from the jurisdiction of the Court of Wards certain descriptions of landed estates belonging to disqualified landholders; and for declaring the Rules in Section 5, Regulation XLIV, 1793, to extend to the cancelling wholly the leases of those under-farmers, a part only of the land included in whose leases may be sold for arrears of revenue.* (Passed 22nd April.)	S. 2, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B.C.) of 1870. S. 3 was modified by s. 9, Reg. I of 1801. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IV (6 SECTIONS).—*A Regulation to provide for the occasional absence of the Zillah and City Judges and Magistrates in the Provinces of Bengal, Bahár, Orissa, and Benares, from their respective stations; and prescribing the duties to be performed by the Registers of the Courts and the Assistants on such occasions, as well as in the discharge of their official functions.* (Passed 13th May.)	S. 5 was explained by cl. 2, s. 14, Reg. II of 1805. Ss. 5 and 6 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
V (5 SECTIONS).—*A Regulation for explaining certain parts of the existing Regulations relative to public sales of land in the Provinces of Bengal, Bahár, and Orissa.* (Passed 20th May.)	S. 2 was modified by s. 6, Reg. I of 1801. S. 3 was explained by s. 7, *idem.* The whole Reg. was repealed by cl. 1, s. 2, Reg. XI of 1822.
VI (6 SECTIONS).—*A Regulation for empowering the Court of Nizamat Adálat to recommend to the Governor-General in Council a mitigation of the punishment declared by the futwah of their Law Officers, or a pardon of the prisoners thereby declared subject to punishment short of death, and also the pardon of accessories in certain cases; for the apprehension and conviction of the principal offenders; and for altering the periods of the general gaol deliveries in the division of Dacca.* (Passed 15th July.)	The whole Reg. was repealed by s. 2, Reg. XIV of 1810.
VII (5 SECTIONS).—*A Regulation for repealing such part of Regulations VIII and X, 1793, as excludes the proprietors of land from the management of their estates on grounds of contumacy or profligacy of character.* (Passed 22nd July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1796.	
VIII (3 SECTIONS).—*A Regulation to determine the fees receivable by Pleaders in the Zillah and City Courts in the Provinces of Bengal, Bahár, and Orissa, in suits for the recovery of arrears of rent or revenue instituted under Regulation XXXV*, 1795 (Passed 2nd September.)	The whole Reg. was repealed by s. 2, Reg. XXVII of 1814.
IX (5 SECTIONS).—*A Regulation for the more certain ascertainment of the witnesses whom prisoners committed for trial before the Courts of Circuit may be desirous to have examined in their defence: and of the causes of the non-attendance of any witnesses named by prisoners or prosecutors to give evidence before the Courts of Circuit.* (Passed 23rd September.)	The whole Reg save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
X (4 SECTIONS).—*A Regulation for the guidance of the Courts of Justice in cases of a difference of opinion on the meaning and construction of the Regulations.* (Passed 7th October.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XI (6 SECTIONS).—*A Regulation for providing against resistance to the processes of the Zillah and City Courts and Police Officers, as well as for compelling the appearance of persons charged with acts of a criminal nature, who may abscond or otherwise evade the process issued against them.* (Passed 28th October.)	S. 2 was explained by s. 4, Reg. IX of 1801. Cl. 5, s. 2, was modified by s. 5, *idem.* Ss. 2 and 4 were modified by cl. 2, s. 26, Reg. XX of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XII (2 SECTIONS).—*A Regulation for increasing the deposit on the purchase of lands at public sale from five to fifteen per cent. in the Provinces of Bengal Bahár, Orissa, and Benares.* (Passed 16th December.)	This Reg. was repealed in so far as it is applicable to public sales for arrears of revenue, by cl. 2, s. 2, Reg. XI of 1822. The whole Reg., together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846.
XIII (3 SECTIONS).—*A Regulation for repealing such parts of Regulations V and VI*, 1793, *as authorize the execution of decrees passed by the Zillah and City Courts in the Provinces of Bengal, Bahár, Orissa, and Benares, although appealed from to the Provincial Courts, and of decrees passed by the Provincial Courts appealed from to the Sádr Díwání Adálat.* (Passed 16th December.)	The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg. &c.
1797.	
I (9 SECTIONS).—*A Regulation for the collection of a new duty of one per cent to be levied on all Imports into, and Exports from, the port of Calcutta excepting money and bullion: and for prohibiting the importation of Opium from the territories of the Nawáb Vizier or from any foreign country.* (Passed 2nd January.)	Such part of this Reg. as directs a duty of one per cent. on the import and export trade of Calcutta to defray the expense of an armed vessel for the protection of the commerce of the port, was repealed by s 2, Reg. XI of 1800. Ss. 7, 8, and 9 were repealed by s. 2, Reg. XIII of 1816.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1797.	
I.—(*Continued.*)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
II (3 SECTIONS).—*A Regulation for defining more specifically the responsibility of the landholders and farmers of land in the Province of Benares under the charge of the Police vested in them, conformably to their engagements, by Regulation XVII*, 1795. (Passed 27th January.)	S. 3, save in so far as it repeals any prior Reg. &c., was repealed by Act XVII of 1862, *q. v.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
III (8 SECTIONS).—*A Regulation for constituting one Court of Circuit to expedite the gaol deliveries of the Zillahs and Cities within the several divisions of the Courts of Circuit for Calcutta, Dacca, Patna, Múrshedabad, and Benares, instead of two Courts, as provided by Regulation VII*, 1794, *and Regulation XVI*, 1795. (Passed 27th January.)	Such part of this Reg. as requires the senior Judge to remain at the sadr station was repealed by s. 8, Reg. I of 1806. Cl. 1, s. 3, was repealed by s. 2, Reg. II of 1804. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IV (14 SECTIONS).—*A Regulation for making sundry alterations in, and additions to, Regulation IX*, 1793. (Passed 13th March.)	S. 3 was modified by s. 6, Reg. VIII of 1801, and explained by s. 7, Reg. XVII of 1817. S. 8 was explained by s. 2, Reg. IV of 1823. S. 9 was repealed by cl. 1, s. 2, Reg. XX of 1817. S. 10 was in part repealed by cl. 1, s 8, Reg. LIII of 1803. S. 11 was repealed by s. 1, Act II of 1849 The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (5 SECTIONS).—*A Regulation for preventing the offence of Dharnah in the Provinces of Bengal, Bahár, and the Company's territories in Orissa.* (Passed 24th March.)	The whole Reg. was repealed by s. 2, Reg. VII of 1820.
VI (30 SECTIONS).—*A Regulation for abolishing Regulation XXIII*, 1793, *entitled "A Regulation for raising an annual fund for defraying the expense of the Police Establishments entertained under Regulation XXII*, 1793;" *and for establishing new fees on the institution and trial of suits in lieu of those prescribed by Regulation XXXVIII*, 1795: *and for levying a stamp duty on certain law and other papers and documents and a percentage on the fees of the authorized pleaders in the Courts of Civil Judicature in the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 10th April.)	Cls. 1, 2, and 3 of s. 3 were repealed by s. 2, Reg. XXIII of 1814. Cl. 4 of s. 3 was repealed by cl. 4, s. 11, Reg. XLIX of 1803. Ss. 4 to 30 were repealed by s. 2, Reg. I of 1814. Cl. 6, s. 4, was repealed by cl. 1, s. 7, Reg. XLIX of 1803. Cl. 1, s. 16, was modified by s. 12, Reg. VII of 1809. Ss. 16, 18, and 20 were in part repealed by s. 3, *idem.* Ss. 16 and 21 were superseded from 30th September 1800 by s. 2, Reg. VII of 1800. See also s. 12, *idem.* Cl. 7, s. 21, was expressly superseded by s. 12, Reg. VII of 1809. Ss. 17 and 18 were repealed in part by s. 13, *idem.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1797.	
VII (4 SECTIONS).—*A Regulation for abolishing the office of Commissioner at Backergunge, and establishing another Court of Díwání Adálat in the districts at present comprised in the Zillah of Dacca Jelalpore; and for reserving to the Governor-General in Council the power of increasing the rates of the duty on stills specified in Section 6, Regulation XXXIV, 1793, in the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 17th April.)	So much of this Reg as constitutes the City of Dacca and the Zillah of Dacca Jelalpore separate jurisdictions, was repealed by s. 2, Reg. V of 1833. S. 4 was repealed by s. 2, Reg X of 1813. So much as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.
VIII (5 SECTIONS).—*A Regulation for rendering prosecutions instituted for the recovery of losses sustained by theft and robbery in the Province of Benares, cognizable in the Courts of Civil Judicature; and for ascertaining the responsibility in such cases of Tehsildars of places held khám in the said province and for transferring the nomination of the pleaders for Government in the several Courts of Judicature from the Sadr Díwání Adálat to the Governor-General in Council.* (Passed 26th May.)	Ss. 4 and 5 were repealed by s. 2, Reg. XXVII of 1814. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q v*
IX (7 SECTIONS).—*A Regulation for imposing an additional duty of fifteen per cent. on foreign indigo imported into the Company's provinces by the way of Benares or Bahar.* (Passed 11th August.)	The whole Reg was repealed by cl 1, s 2, Reg IX of 1810.
X (15 SECTIONS).—*A Regulation for requiring all licenses for the manufacture or vend of spirituous liquors or intoxicating drugs in the Provinces of Bengal, Bahár, Orissa, and Benares, and also certain complaints punishable by the Magistrates in the three Provinces of Bengal, Bahár, and Orissa to be written on stamped paper; and for exempting in the four provinces persons taking out rowannahs for goods not exceeding in value ten rupees, and also persons to whom maafy rowannahs may be granted, from the payment of the stamp duties.* (Passed 11th August.)	Ss 6 and 7 were repealed in part by s. 3, Reg VII of 1809. S 8 was repealed by s 23, Reg. VII of 1800. S 11 was repealed in part by s. 13, Reg. VII of 1800. The whole Reg. was repealed by s. 2, Reg. I of 1814
XI (3 SECTIONS).—*A Regulation for amending the form of bond to be executed by British Subjects or others not amenable to the Zillah and City Civil Courts, on their instituting suits in such Courts; and for prescribing a form of bond to be executed by the sureties of defendants in the above Courts.* (Passed 13th October.)	This whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1797.	
XII (4 Sections).—*A Regulation for the further limitation of appeals to the Court of Sádr Díwání Adálat in suits for personal property: and for altering and explaining part of the existing Rules for appeals to that Court and to the Provincial Courts of Appeal.* (Passed 27th October.)	Ss. 3 and 4 were modified by s. 12, Reg. II of 1805. S. 3 was also modified by Act IV of 1850. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg. &c.
XIII (4 Sections).—*A Regulation for the occasional exercise of judicial powers by the Assistants to the Zillah and City Magistrates in the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 27th October.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XIV (8 Sections).—*A Regulation for empowering the Court of Nizamut Adálat to extend relief to certain prisoners sentenced to Deyat and pecuniary fines, or to restore stolen property, or the value of it, and to remain in confinement until the completion of their sentences: also for preventing sentences of the same nature in future: and for drawing the distinction between the Courts of Civil and Criminal Jurisdiction more clearly and obviously.* (Passed 10th November.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XV (9 Sections).—A Regulation for levying certain fees to defray the expense of the offices for keeping the Records in the native languages, which relate to the public Revenue, established under Regulations XXI, 1793, and XXX, 1795. (*Passed 24th November.*)	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal except the Scheduled Districts—See Schedule IV of Act XV of 1874. It had been previously declared to be in force in the Santhal Parganas—See Note to page 1. The whole Reg. so far as it relates to the North-West Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XVI (7 Sections).—*A Regulation respecting appeals from the Court of Sadr Díwání Adálat to His Most Excellent Majesty and His Most Honorable Privy Council.* (Passed 24th November.)	The whole Reg. was repealed by s. 2, Act VI of 1874. (See Schedule.)
XVII (3 Sections).—*A Regulation for authorizing the Courts of Circuit to inflict a perpetual stigma in certain cases upon witnesses convicted of wilful and corrupt perjury.* (Passed 1st December.)	This whole Reg. was repealed by s. 2, Reg. II of 1807.
XVIII (7 Sections).—*A Regulation for authorizing the Judge of Zillah Chittagong to refer suits for landed property in certain cases to the native Commissioners acting in that Zillah as Referees under Regulation XL, 1793.* (Passed 8th December.)	This whole Reg. was repealed by s. 2, Reg. XXIII of 1814.
XIX (5 Sections).—*A Regulation for empowering the Provincial Courts of Appeal to require the Zillah and City Courts to furnish translations of the proceedings held therein, in causes appealed to the*	S. 3 was repealed by s. 19, Reg. II of 1801. S. 5 was repealed by Act VII of 1842. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1797.	
XIX.—(*Continued.*)	
Sadr Diwání Adálat and for providing for the translation of the papers and proceedings in such causes, when the same cannot be made in due time by the Registers and Assistants to the respective Courts. (Passed 15th December.)	of 1859 has been or may be extended, and except in so far as it repeals any other Reg. &c.
1798.	
I (5 Sections).—A Regulation to prevent fraud and injustice in conditional sales of land under deeds of Baî-bil-wafâ or other deeds of the same nature. (*Passed 9th January.*)	The whole of this Reg. except such parts as relate to interest was declared to be in force in the Panjáb by s. 3, Act IV of 1872—See Schedule I. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces except the Scheduled Districts—See Schedules IV and V of Act XV of 1874. It had been previously declared to be in force in the Santhal Parganas—See Note to page 1.
II (10 Sections).—*A Regulation for authorizing a review of causes decided by the Civil Courts in certain cases: and for explaining parts of Regulations IV, V, and VI,* 1793. (Passed 9th February.)	Ss. 2 and 3 were modified by s. 2, Reg III of 1813, and repealed by cl. 1, s. 4, Reg. XXVI of 1814. S. 4, save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864. Ss. 5, 6, 7, 8, 9, and 10 were repealed by Act X of 1861 in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as they repeal any other Reg. &c. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (7 Sections).—*A Regulation for establishing annual vacations of the Civil Courts of Justice: for postponing the commencement of the half-yearly gaol deliveries during such vacations: and for establishing a fixed order of succession in the gaol deliveries of the several Zillahs and Cities throughout the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 2nd March.)	Ss. 2 and 3 were repealed by s. 1, Act L of 1860. S. 6 was modified by ss. 4, 7, and 8, Reg. II of 1804, and repealed as far as relates to the order of holding the gaol deliveries of the Dacca division by s. 3, Reg. XVII of 1825. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IV (9 Sections).—*A Regulation prescribing Rules to be observed in summoning the officers of the Salt Chokies.* (Passed 4th May.)	The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were especially re-enacted thereby. S. 6 was repealed by cl. 1, s. 2, Reg. XX of 1817.
V (16 Sections).—*A Regulation for the further limitation of appeals to the Court of Sadr Diwání*	Ss. 9 to 15 inclusive were repealed by s. 2, Reg. XXVII of 1814.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1798.	
V.—(*Continued.*)	
Adálat: for providing further security during appeals in certain cases: and for explaining and amending certain parts of the existing Regulations relative to the fee payable to Government on the institution of suits in the Civil Courts, and the fees of the pleaders in those Courts: also for discontinuing the records of decided cases, required by Sections 10 *and* 14 *of Regulation XVIII,* 1793. (Passed 5th July.)	The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, and except in so far as it repeals any other Reg. &c.
1799.	
I (8 Sections).—A Regulation for declaring a general freedom of Trade in Chunam and other articles on the frontier of Sylhet subject to certain provisions. (*Passed 4th January.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 2, the words "natives of the Company's provinces; and to Armenians, Greeks, and all other," and the words "not being British-born subjects; as well as to such British-born subjects as may be authorized by a license from Government to reside in the district of Sylhet." In s. 6, from and including the words "in the mode" down to the end of the section: and s. 7. Such parts of s. 3 and of this Reg. generally as prohibit trade with the country to the north-west of the Surmah river, were repealed by s. 2, Reg. II of 1828.
II (6 Sections).—*A Regulation for monthly gaol deliveries in the Cities of Dacca, Múrshedabad, and Patna: and for declaring convicts, who may escape from confinement during their sentences liable to transportation.* (Passed 25th March.)	Ss. 2 and 3 were explained by s. 5, Reg. II of 1804. S. 5 was repealed by cl. 1, s. 9, Reg. LIII of 1803. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
III (2 Sections).—*A Regulation for postponing to the end of the Bengal year* 1204, *or to the* 10*th April* 1798, *the operation of Section* 20, *Regulation XXXV,* 1793, *within the Zillah of Sylhet.* (Passed 19th April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IV (6 Sections).—*A Regulation for the trial of persons charged with crimes against the State.* (Passed 26th April.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (8 Sections).—A Regulation to limit the interference of the Zillah and City Courts of Díwání Adálat in the execution of Wills and Administration to the estates of persons dying Intestate. (*Passed 3rd May.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 1, the words and figures "prescribed in s. XV of Regulation IV, 1793, *viz.*" In s. 2, the words and figures "Regulation X of 1793, or" and the word "other" before "Regulation;" and from and including the words "under the general rule" to the end of the

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1799.	
V.—(*Continued.*)	section. In ss. 1, 2, 3, and 7, the words "and City" and "or City," wherever they occur: and in s. 8, the words and figures "described in Regulation X of 1793" and "by the above or any other Regulation," and the word "the" before "disqualified." So much of ss. 2 and 3 as restrict the interference of Civil Courts in cases of inheritance of minors was repealed by s. 1, Act XL of 1858. Ss 5 and 6 were modified by s. 2, Reg. V of 1827. S. 7 was modified by s. 6, Reg. XV of 1806. S. 2, so far as it relates to the executors of persons, who are not Mahomadans, but are subject to the jurisdiction of a District Court in the territories subject to the Lieutenant-Governor of Bengal, was repealed by s. 4, Act XXI of 1870. In force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces except the Scheduled Districts.—See Schedules IV and V of Act XV of 1874.
VI (39 Sections).—*A Regulation prescribing Rules for the guidance of all persons concerned in the provision of Opium on the part of Government by agency, and for preventing the illicit cultivation of the poppy, and the illicit importation of or traffic in Opium.* (Passed 11th July.)	S. 15 was repealed by s. 2, Reg. VI of 1809. The whole Reg. was repealed by s. 2, Reg. XIII of 1816.
VII (31 Sections).—*A Regulation for enabling proprietors and farmers of land to realize their rents with greater punctuality: for providing against unnecessary delay in the payment of the public revenue assessed upon the lands: and for securing the ultimate recovery of arrears of revenue by a sale of the landed property from which it may be due at the close of the year.* (Passed 29th August.)	Such parts of this Reg. as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824: and such parts as authorize Judges to take cognizance of summary suits for rent were repealed by s. 2, Reg. VIII of 1831. Ss. 1—20 inclusive save in so far as they repeal any other Reg. &c. were repealed by s. 1, Act X of 1859. S. 9 was modified by s. 1, Act X of 1846: and so much of it as respects darogahs and other subordinate officers of Police was repealed by cl. 2, s. 2, Reg XX of 1817. Ss. 9, 10, and 11 were modified by cl. 1, s. 27, Reg. XX of 1817. Ss. 15 and 20 were explained and modified by s. 4, Reg. II of 1805. S. 15 was also modified and explained by ss. 2 and 3, Reg. IX of 1801: by cl. 1, s. 18, Reg. VIII of 1819: and by ss. 1 and 2, Act VIII of 1835. Of s. 23, cl. 2 was modified by s. 2, Reg. I of 1801, and explained and modified by s. 2, Reg. XVIII of 1814: cl. 4 was modified by s. 3, Reg. I of 1801, and so much as regards the appointment of Patwaris was repealed by s. 2, Reg. XII of 1817, in so far as applies to the Ceded and Conquered Provinces, Bahar,

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1799.	
VII.—*(Continued.)*	Benares, Cuttack and Puttaspore: cl. 6 was modified as to the conduct of sales by ss. 1 and 2, Act VIII of 1835: such parts of the section as relate to the levy of interest on the arrears of public revenue were repealed by cl. 1, s. 2, Reg. VII of 1830: such parts as relate to the issue of talab-chittís or dastaks, the attachment of estates before sale, and the selection of lands for sale, were repealed by cl. 2, s. 2, Reg. XI of 1822: cls. 2 and 8 and so much of cl. 5 as directs the mode of recovering any deficiency were repealed (so far as relates to the Lower Provinces of Bengal) by s. 29, Act VII (B.C.) of 1868. S. 25 was supplemented as to the conduct of sales by ss. 1 and 2, Act VIII of 1835: and was repealed (so far as relates to the Lower Provinces of Bengal) by s. 29, Act VII (B.C.) of 1868: see also s. 29, Act X of 1859. S. 26, so far as regards the appointment of managers by the Collectors in the provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B.C.) of 1870. S. 28 and cls. 2, 3, 4, and 5 of s. 29, were repealed by cl. 1, s. 2, Reg. XI of 1822: cl. 1, s. 29, was modified by s. 5, Reg. I of 1801. This Reg. is in force in the Santhal Parganas—See Note to page 1. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
VIII (6 Sections).—*A Regulation for certain Modifications of the Mahomadan law in cases of murder: and to explain parts of Regulation XXI of 1795 and Regulation V of 1797 in cases of Dharna.* (Passed 10th October.)	S. 6 was repealed by s. 2, Reg VII of 1820. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IX (3 Sections).—*A Regulation for further providing against resistance to the processes of the Civil Courts in the Cities of Dacca, Múrshedabad, and Patna, as well as against resistance to the processes of the Civil Courts in general.* (Passed 10th October.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
X (3 Sections).—*A Regulation to prevent delay in the transmission of the records of trials referred to the Court of Nizamat Adálat.* (Passed 17th October.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
1800.	
I (7 Sections).—*A Regulation for the appointment of guardians to the persons of minor orphan zemindárs and others, proprietors of shares in joint undivided estates not subject to the jurisdiction of the Court of*	The whole Reg. was repealed by s. 1, Act XL of 1858.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1800.	
I.—*(Continued.)*	
Wards, when the parents shall not have left any guardians to their children by will. (Passed 2nd January).	
II (15 SECTIONS).—A Regulation for laying open to public use the stone quarries at Chunar, Ghazípore, and Mirzapore, in the Province of Benares subject to a fixed duty. (*Passed 16th January.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz* :—In s. 2, the words "native inhabitants of the Company's provinces and all other," and from and including the words "not being," down to and including the figures "1793:" in s. 8, the words and figures "which are exempted from the customs by s. 10, Regulation III, 1795:" s 9, and in s. 10, the words "besides an oath, or solemn declaration, for the faithful execution of their respective duties."
III (3 SECTIONS).—*A Regulation for authorizing the Zillah Judges to refer to the Registers of their Courts appeals from certain decisions of the native Commissioners appointed under Reg. XL,* 1793. (Passed 13th February.)	This whole Reg. was repealed by cl. 4, s. 6, Reg. XLIX of 1803. The whole Reg. was also repealed by Act X of 1861 in so far as applies to the territories to which Act VIII of 1859 has been or may be extended, but excepting so far as it repeals any other Reg. &c.
IV (10 SECTIONS).—*A Regulation for preventing the adulteration of common or alimentary Salt by mixing with it Khari-nón and certain other substances.* (Passed 14th March.)	This Reg. was amended by Reg. XLVIII of 1803. So much of s. 3 as respects darogahs and other subordinate officers of Police was repealed by cl. 2, s. 2, Reg. XX of 1817. The whole of the rules contained in this Reg were repealed by s. 2, Reg X of 1819, save such as were specially re-enacted thereby.
V (28 SECTIONS).—*A Regulation for extending to the Province of Benares the rules contained in Regulation VII,* 1799, *for enabling proprietors and farmers of land to realize their rents with greater punctuality as well as such other parts of the above Regulation as are applicable to the Province of Benares.* (Passed 27th March.)	This Reg. was modified by s. 15, Reg. I of 1801, and repealed in so far as it is applicable to public sales for the recovery of arrears of revenue by cl. 2, s. 2, Reg. XI of 1822. Such parts as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824, and such parts as authorize Judges to take cognizance of summary suits for rent were repealed by s. 2, Reg VIII of 1831. Ss. 1 to 20, save in so far as they repeal any other Reg. &c. were repealed by s. 1, Act X of 1859. S. 9 was modified by s. 1, Act X of 1846. Ss. 9, 10, and 11 were modified by cl. 1, s. 27, Reg. XX of 1817. Ss. 14 and 19 were modified by s. 4, Reg. II of 1805. S. 25, so far as it relates to the appointment of patwaris, was repealed by s. 2, Reg XII of 1817 as regards the Ceded and Conquered Provinces, Bahár, Benares, Cuttack, and Puttaspore. The whole Regulation, so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1800.	
V.—*(Continued.)*	The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
VI (35 SECTIONS).—*A Regulation for defining the tax to be levied on the sale of intoxicating drugs and toddy; and for amending the existing Rules relative to the licensed sale of these articles, as well as the sale of spirituous liquors generally, so as to render the tax more conducive to the purposes of Police.* (Passed 27th March.)	S. 11 was in part repealed by s. 2, Reg. I of 1808. S. 34 was in part repealed by s. 2, Reg. XX of 1806. The whole Reg. was repealed by s. 2, Reg. X of 1813.
VII (27 SECTIONS).—*A Regulation to explain and amend certain parts of the existing Rules for levying a stamp duty upon obligations for money, law papers, and other documents.* (Passed 3rd April.)	Cl. 3, s. 6, to remain in force to 1st Nov. 1812, by s. 2, Reg. XII of 1812. S. 20 was repealed by s. 2, Reg. XXIII of 1814. Ss. 23 and 25 were repealed in part by s. 3, Reg. VII of 1809. The whole Reg. was repealed by s. 2, Reg. I of 1814.
VIII (22 SECTIONS).—A Regulation for preparing a general Pargana Register of Lands: and for certain alterations in the prescribed Registers of Estates paying revenue and lands held exempt from the payment of revenue. *(Passed 3rd July.)*	This Reg. is in force throughout the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts.—See Schedule IV, Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—See Note to page 1. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. 4, the words "at the commencement of every fifth succeeding year:" in ss. 5, 6, 7, 9, 10, 14, 16, 17, 19, the word "quinquennial" wherever it occurs: in s. 5, the words "the interval of 5 years:" in s. 6, the words "in the Persian language;" and the words and figures "appointed under Regulation XXI of 1793 (extended to Benares by Regulation XXXVII of 1795)," and the words ("or by the City Judge in the Province of Benares):" in s. 11, the words "directed to be prepared at the expiration of every 5 years:" in s. 17, the words and figures "appointed under Regulation XXI of 1793," and from and including the words "Such officers shall" to the end of the section: and s. 22.
IX (27 SECTIONS.)—*A Regulation for the foundation of a college at Fort William in Bengal, and for the better instruction of the Junior Civil Servants of the Honorable the English East India Company in the important duties belonging to the several arduous stations to which the said Junior Civil Servants may be respectively destined in the administration of justice and in the general government of the British Empire in India.* (Passed 10th July.)	Ss. 3, 10, 11, 13, 15, 17, and 25 were repealed by s. 2, Reg. III of 1807. S. 18 was in part repealed by s. 12, *idem.* S. 19 was repealed by s. 2, Reg. IV of 1801. S. 22 was modified by s. 10, Reg. III of 1807. S. 23 was modified by s. 11, *idem.* The remaining portion of the Reg. was repealed by s. 2, Reg. XX of 1814.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, &c. repealed, amended, or altered.
1800.	
X (2 Sections).—A Regulation for preventing the division of landed estates in the Jangal Mahals of the Zillah of Midnapore and other districts. (*Passed 11th December.*)	
XI (26 Sections).—*A Regulation for levying an additional duty of one per cent. on the Imports into and Exports from the port of Calcutta, with certain exceptions, and for abolishing the duty of one per cent established by Regulation I, 1797; also for establishing sundry Rules for the better regulation and collection of the Calcutta Customs, and for enacting into a Regulation certain orders of Government respecting those customs which have been passed subsequently to the date of Regulation XXXIX, 1795.* (Passed 18th December.)	Cl. 2, s. 4 was in part repealed by cl. 1, s. 2, Reg. XIX of 1806. Cl. 3, s. 4 was explained by s. 15, Reg. V of 1802. S. 26 was repealed by s. 8, Reg. VII of 1806. The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
1801.	
I (15 Sections).—A Regulation to explain and amend part of the Rules for collecting the public Revenue contained in Regulations VII, 1799, and V, 1800; to expedite the sale of lands for Arrears of Revenue: to limit the division of property by such sales; to explain and amend the Rules contained in Regulation XXV, 1793 (extended to Benares by Regulation XXVI, 1795), for the Division of Joint Estates and allotment of the fixed assessment thereupon: and to fix a period for the operation of such part of Regulation VIII, 1793, as authorizes the separation of certain talúks from the zemindaris to which they were attached at the time of the Decennial Settlement. (*Passed 15th January.*)	So much of this Reg. as relates to lunatics or idiots was repealed by s. 1, Act XXXV of 1858. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz:*—Ss. 1, 2, 4, 9, and 15: in s. 8, the words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by section twenty-five Regulation XXV of 1793, in cases of private divisions of estates; and by clause second of section twenty-nine of Regulation VII of 1799, in cases of public sales:" in s. 10, the words and figures "or of suspicion that the purchase has been made in opposition to the rules contained in clauses 3 and 4 of section XXIX Reg. VII of 1799," and "for the orders of the Governor-General in Council, as directed in clause fourth of section XXIX. Regulation VII, 1799." Such parts of s. 2 as relate to the levy of interest and penalty on arrears of revenue, were repealed by cl. 1, s. 2, Reg. VII of 1830. Ss. 3, 5, 6, 7, and 11 were repealed by cl. 1, s. 2, Reg. XI of 1822. So much of s. 8 as refers to the appointment of patwarís was repealed by s. 2, Reg. XII of 1817 as regards the Ceded and Conquered Provinces, Bahár, Benares, Cuttack, and Puttaspore. Ss. 8 and 12 were amended by cl. 1, s. 10, Reg. V of 1810. S. 11 was explained and modified by s. 2, Reg. XVIII of 1814. Ss. 12 and 13 were repealed by s. 2, Reg. XIX of 1814. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1801.	
I.—*(Continued.)*	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—See Schedule IV of Act XV of 1874. It was previously declared to be in force in the Santhal Parganas—See Note to page 1.
II (19 SECTIONS).—*A Regulation for the more speedy and effectual administration of justice in the Courts of Sádr Díwání and Nizamat Adálat.* (Passed 12th March.)	Ss. 3 and 10 were repealed in part by s. 2, Reg. X of 1805. The rules contained in ss. 4 and 11 which require the Judges to take the oaths of office before the Governor-General in Council were repealed by s. 3, Reg. III of 1829. S. 6 was repealed by Act X of 1861, in so far as it relates to suits or proceedings under Act VIII of 1859, in the territories to which Act VIII has been extended, excepting so far as it repeals any other Reg. &c. Ss. 8 and 9 were repealed by cl. 1, s. 3, Reg. XXVI of 1814. The whole Reg., save ss. 7, 14, and 15, was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
III (2 SECTIONS).—*A Regulation for puting a stop to the practice, which prevails in many parts of the Company's provinces, of parties in civil suits preferring unfounded accusations of perjury against the witnesses in such suits and unfounded charges of subornation of perjury against the adverse parties in such suits.* (Passed 19th March.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IV (4 SECTIONS).—*A Regulation for the Modification of certain parts of Regulation IX, 1800, entitled "A Regulation for the foundation of a college at Fort-William in Bengal, and for the better instruction of the Junior Civil Servants of the Honorable the East India Company in the important duties belonging to the several arduous stations to which the said Junior Civil servants may be respectively destined in the administration of justice and in the general government of the British Empire in India."* (Passed 11th April.)	The whole Reg. was repealed by s. 2, Reg. XX of 1814.
V (15 SECTIONS).—*A Regulation for the re-establishment, with certain Exceptions, of the Calcutta town duties abolished by Section 2, Regulation XXXIX, 1765.* (Passed 14th May.)	Cl. 15, s. 4, was repealed by s. 15, Reg. V of 1802. The whole Reg. was repealed by s. 2, Reg. X of 1810.
VI (33 SECTIONS).—*A Regulation for providing more effectually against the illicit manufacture, importation, transportation, and sale of Salt.* (Passed 4th July.)	Cl. 6, s. 4, was modified by s. 17, Reg. VI of 1804. S. 6 was repealed by s. 18, Reg. VI of 1804. S. 11 was modified by s. 2, Reg. XII of 1801. Cl. 3, s. 11, was repealed by cl. 1, s. 2, Reg. XX of 1817. The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1801.	
VII (7 SECTIONS).—*A Regulation for modifying the duty on coasting vessels commonly called Dhonies, and for providing for the better collection of the same: and for the establishment of a duty of one anna per ton on vessels importing into or exporting from the River Húghlí, for defraying the expenses attendant on a magazine to be erected for the reception of the gunpowder of ships entering the said river.* (Passed 16th July.)	This Reg. ceases to have effect in any port, river, &c. to which Act XXII of 1855 is extended, *vide* s. 2, *idem*. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
VIII (6 SECTIONS).—*A Regulation for modifying the Mahomadan Law in certain cases of katl-khata or accidental homicide and in other cases of the like nature.* (Passed 31st July.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IX (5 SECTIONS).—*A Regulation to limit the operation of Section 15, Regulation VII*, 1799, *upon persons employed in the Salt manufacture or in the provision of the Company's investment, and to explain and amend Section 2, Regulation XI*, 1796, *with respect to persons so employed, and others charged with resistance of process under that Regulation.* (Passed 31st July.)	Ss. 3 and 4 were repealed by s. 2, Reg. IX of 1829. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
X (31 SECTIONS).—*A Regulation for the establishment of certain duties to be levied on goods imported into the Cities of Patna, Dacca, Múrshedabad, and Benares, and for subjecting certain additional articles to the payment of the Calcutta Town Duties.* (Passed 6th August.)	The whole Reg. was repealed by s 2, Reg. X of 1810.
XI (25 SECTIONS).—*A Regulation for re-establishing, with certain Alterations, the Government Customs heretofore levied at Húghlí, Múrshedabad, Dacca, Chittagong, and Patna, and discontinued by the orders of the Governor-General in Council, dated the 20th June 1788: and for withdrawing the Custom House established at Manjhí by the said orders, and continued under Regulation XLII*, 1793. (Passed 6th August.)	Ss. 6 and 24 were explained by Reg. I of 1802. S. 22 was repealed by s. 2, Reg. I of 1814. The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
XII (2 SECTIONS).—*A Regulation for determining what Magistrates, Collectors of Revenue, Collectors of Customs, Commercial Residents or Agents, or Officers of Police shall exercise the power of seizing Salt under Clauses first, second, third, fourth, fifth, sixth, and seventh, Section 11, Regulation VI*, 1801. (Passed 6th August.)	The whole of the rules contained in this Reg were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1802.	
I (2 SECTIONS).—*A Regulation for declaring the articles of piece goods, of whatever description, cotton, cotton yarn, ghee, and charcoal to be subject to the Government customs established by Regulation XI, 1801.* (Passed 28th January.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
II (33 SECTIONS.)—*A Regulation for levying a duty on spirits manufactured at distilleries constructed and worked according to the European manner.* (Passed 22nd April.)	Ss. 22, 23, 24 and 25 were repealed by s. 2, Reg. X of 1813. S. 26 was repealed by s. 1, Act XI of 1849. S. 27 was repealed by s. 10, Reg X of 1808. The whole Reg. except so far as it repeals any other Reg. or Act, was repealed by s. 1, Act XXI of 1856.
III (6 SECTIONS).—*A Regulation for defining the security to be required from defendants in civil causes; and for amending part of the existing Rules concerning the trial of civil suits preferred by paupers.* (Passed 22nd April.)	Such parts of ss. 2, 3, 4, 5, and 6 as are applicable to paupers were repealed by s. 2, Reg. XXVIII of 1814. Such parts of ss. 3 and 4 as relate to the fees of vakeels were repealed by s. 2, Reg. XXVII of 1814. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended and except in so far as it repeals any other Reg. &c.
IV (4 SECTIONS).—*A Regulation to constitute an occasional second Court of Appeal for the Division of Dacca.* (Passed 22nd April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (24 SECTIONS).—*A Regulation for making certain alterations in the rates of the Government customs, and of the town duties in the Provinces of Bengal, Bahár, Orissa, and Benares: and for the better collection of the said customs and duties.* (Passed 8th July.)	The whole Reg. was repealed by cl. 1, s. 2. Reg. IX of 1810.
VI (4 SECTIONS).—*A Regulation for preventing the sacrifice of children at Saugor and other places.* (Passed 20th August.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VII (4 SECTIONS).—*A Regulation for the exemption of certain articles imported into Bengal by sea from the payment of any duties or customs on their transportation to places in the interior of the country.* (Passed 18th November.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
I (2 SECTIONS).—*A Regulation for forming into a regular Code all Regulations which may be enacted for the internal government of the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	Extended by s. 2, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. Such parts of ss. 11 and 15 as direct the Regs. to be translated into Hindustaní were repealed by s. 6, Reg. VII of 1813. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (23 SECTIONS).—*A Regulation for establishing and defining the jurisdiction of the Courts of Adálat or Courts of Judicature for the trial of civil suits in the first instance in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 6, Reg. VIII of 1805, extended with certain modifications to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 4, 5, 6, 7, 9, 10, 15, 16, and 20 were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, excepting so far as they repeal any other Reg. &c. S. 8 was repealed by Act XIII of 1860. So much of s. 12 as provides that the Zillah Courts in the Ceded Provinces shall not entertain any suit against an individual resident in Calcutta, and the extension of this provision to other provinces and zillahs, was repealed by Act XXIII of 1843. S. 18 was modified by ss. 2 and 3. Reg. II of 1805. S. 21 was repealed by cl. 4, s. 6, Reg. VIII of 1805. S. 22 was modified by cl. 1, s. 2, Reg. III of 1813, and repealed by cl. 1, s. 4, Reg. XXVI of 1814. So much as had not been previously repealed was repealed by s. 2, Act VI of 1871. (See Schedule).
III (29 SECTIONS).—*A Regulation for receiving, trying, and deciding suits or complaints declared in the Courts of Adálat cognizable in the several zillahs established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was with one exception extended by s. 7, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 2, 3, 4, 5, 6, 7 (except so much as relates to the administration of oaths to parties and witnesses,) 9, 10, 12, 13, 14, 15, 17, 18, 19. 20, 27, 28, and 29 were repealed by Act X of 1861, in so far as the said sections apply to the territories to which Act VIII of 1859 has been or may be extended, but saving in so far as they repeal any other Reg. or Act. S. 3 was modified by s. 2, Reg. XIII of 1808, and so much of the same section as requires the transcription of plaints was repealed by Act XIV of 1847. S. 5 was modified by cl. 1, s. 2, Reg. II of 1806. Ss. 5 and 6 were modified by cl. 1, s. 6, Reg. XXVI of 1814. So much of s. 7 as had not been previously repealed and s. 8 were repealed by s. 2, Act X of 1873—See Schedule. S. 10 was modified by s. 2, Reg. VI of 1830. So much of cl. 1, s. 16, as declares that the Mahomadan and Hindú Law Officers shall attend to expound the law, and that Judges may refer cases for the opinion of the Law Officers of the Superior Courts,

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1803.	
III.—(*Continued.*)	was repealed by Act XI of 1864, and the whole of the clause was repealed by s. 2, Act VI of 1871 (see Schedule). So much of cls. 2 and 3 of the same section as restricts the interference of the Civil Courts in cases of inheritance by minors, was repealed by s. 1, Act XL of 1858. Cls. 5 and 6 of the same section were modified by s. 2, Reg. V of 1827. S. 18 was repealed by s. 1, Act XII of 1856. S. 21 was explained by cl. 2, s. 17, Reg. VIII of 1805. So much as had not been previously repealed, was repealed so far as relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
IV (35 Sections).—*A Regulation for establishing a Provincial Court of Appeal, for hearing appeals from decisions passed in the several Zillah Courts established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company; and for defining the powers and duties of the said Court; and for prescribing Rules for receiving and deciding upon appeals and other causes of which the Court is declared to have cognizance.* (Passed 24th March.)	This Reg. was by s. 8, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of s. 2 as provides that the Provincial Courts shall be superintended by three Judges was repealed by cl. 1, s. 2, Reg. V of 1814. Such part of s. 10 as relates to charges of corruption against Judges was repealed by s. 2, Reg. X of 1806, and so much as relates to charges of corruption generally was repealed by s. 1, Act XXVI of 1839. S. 12 was modified by s. 12, Reg. II of 1805, and repealed by cl. 1, s. 3, Reg. XXVI of 1814. S. 30 was modified by cl. 1, s. 2, Reg. III of 1813; and cl. 2 of the same section was repealed by cl. 1, s. 4, Reg. XXVI of 1814. S. 33 was repealed by Act VII of 1842. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, excepting in so far as it repeals any other Reg. &c.
V (38 Sections).—*A Regulation for empowering the Sádr Diwání Adálat to try appeals from the decisions of the Provincial Court of Appeal established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company: and for extending the jurisdiction of the Sádr Díwání Adálat over the said provinces and all the Civil Courts established therein.* (Passed 24th March.)	This Reg. was extended by s. 10, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of this Reg. as extends the powers of the Sádr Díwání and Nizamat Adálat at Calcutta to the Province of Benares and the Ceded and Conquered Provinces was repealed by s. 2, Reg. VI of 1831. Ss. 4, 5, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 28, 29 and 37 were repealed by Act X of 1861 in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, excepting in so far as they repeal any other Reg. &c. S. 8 was repealed by s. 2, Reg. X of 1806, and by s. 1, Act XXVI of 1839. S. 10 was modified by s. 12, Reg. II of 1805. S. 26 was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
V.—(*Continued.*)	S. 37 was modified by cl. 1, s. 2. Reg. III of 1813, and repealed by cl. 1, s. 4, Reg. XXVI of 1814 So much as had not been previously repealed was repealed by s. 2, Act VI of 1874—See Schedule.
VI (34 SECTIONS).—*A Regulation for the guidance of the Magistrates of the several zillahs in the provinces Ceded by the Nawáb Vizier to the Honorable the English East India Company, in apprehending persons charged with crimes or offences, and bringing them to trial.* (Passed 24th March.)	This Reg. was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 2 and 3 were modified as to Judges holding the office of Magistrate, by cl. 1, s. 2, Reg. XVI of 1810. S. 5 was repealed in part by s. 2, Reg. IX of 1807, and in part by s. 1, Act II of 1856. And ss. 5 and 6 were explained by s. 2, Reg. VIII of 1822. Ss. 13, 27, 29, and 30 were repealed by s. 2, Reg. VII of 1829. S. 19 was in part expressly superseded by s. 4, Reg. XV of 1806, and was modified by cl. 1, s. 2, Reg. XX of 1825. S. 23 was repealed by s. 13, Reg. XVI of 1810. The whole Reg. with the exception of ss. 3 and 34, and save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VII (42 SECTIONS).—*A Regulation for the establishment of a Court of Circuit for the trial of persons charged with crimes in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The rules as to the delivery of fatwas contained in this Reg. were modified by s. 5, Reg. VI of 1832. Such part of this Reg. as requires the senior Judge to remain at the sádr station was repealed by s. 8, Reg. I of 1806. S. 2 was repealed in part by s. 2, Reg. IX of 1804. Ss. 5 to 41 inclusive, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* S. 9 was repealed by s. 4, Reg. XVIII of 1817. S. 15 was explained by s. 7, Reg. XVII of 1817. S. 24 was explained by s. 2, Reg. IV of 1823. S. 28 was repealed by cl. 1, s. 5, Reg. XII of 1825. S. 31 was repealed by cl. 7, s. 14, Reg. VIII of 1805. S. 35 was repealed by s. 1, Act II of 1849. S. 40 was repealed by s. 2, Reg. II of 1807. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VIII (26 SECTIONS).—*A Regulation for extending the jurisdiction of the Nizamat Adálat to the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of this Reg. as extends the powers of the Sádr Díwání and Nizamat Adálat at Calcutta to

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
VIII.—(*Continued.*)	the Province of Benares and the Ceded and Conquered Provinces, was repealed by s. 2, Reg. VI of 1831. S. 12 was modified by s. 6, Reg. VI of 1832. Ss. 19, 20, and 21 were repealed by s. 2, Reg. XIV of 1810. S. 22 was repealed by cl. 1, s. 9, Reg. LIII of 1803. The whole Reg. with the exception of ss. 6, 24, and 26, and save in so far as it repeals any prior Reg. &c., was repealed by Act XVII of 1862, *q. v.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IX (14 SECTIONS).—*A Regulation for empowering the Judges of the Zillah Courts, the Magistrates, the Judges of the Provincial Court of Appeal, and the Judges of the Court of Circuit, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, to propose Regulations for matters coming within their cognizance respectively.* (Passed 24th March.)	This Reg. was by s. 15, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
X (35 SECTIONS).—*A Regulation for the appointment of Vakíls or Native Pleaders in the Courts of Civil Judicature in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 15, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 35 was repealed by s. 2, Reg. XXVIII of 1814. The whole Reg. was repealed by s. 2, Reg. XXVII of 1814.
XI (9 SECTIONS).—*A Regulation for the appointment of the Hindú and Mahomadan Law Officers of the Civil and Criminal Courts of Judicature in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was explained by cl. 1, s. 6, Reg. XVIII of 1817: and was by s. 15, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Cl. 2, s. 5, was repealed by s. 4, Reg. XVIII of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1854.
XII (21 SECTIONS).—*A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 15, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The provisions of this Reg. for a civil action against law officers and ministerial native officers of the Courts of Judicature were explained by cl. 1, s. 6, Reg. XVIII of 1817. S. 2 was repealed in part by s. 2, Reg. V of 1804. Ss. 6, 7, 8, 9, 10, 15, 17, 18, 20, and 21 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* S. 9 was repealed in part by cl. 3, s. 16, Reg. VIII of 1805: it was also modified by s. 3, Reg. XVIII of 1817.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XII.—(*Continued.*)	Ss. 12 and 14, save in so far as they repeal any prior Reg. &c., were repealed by Act XVII of 1862, *q. v.* S. 12 was repealed in part by s. 3, Reg. X of 1806: and cls. 9, 10, 11, and such other parts thereof as relate to Covenanted Servants, were repealed by s. 1, Act XXVI of 1839. S. 15 was explained by cl. 2, s. 14, Reg. II of 1805. S. 19 was repealed by cl. 4, s. 16, Reg. VIII of 1805. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XIII (23 Sections).—*A Regulation for preserving complete the records of the Civil and Criminal Courts of Judicature in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and for requiring the Zillah Courts in the said provinces to transmit Monthly Reports of the suits decided by them to the Provincial Court of Appeal; and for requiring the Provincial Court of Appeal to submit Monthly Reports of the Appeals and causes decided by them to the Sádr Díwání Adálat; and for enabling the Sádr Díwání Adálat to judge of the progress made by the Zillah and Provincial Courts in the said provinces in the determination of causes.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 10, 11, 13, 14, and 16 were repealed by s. 2, Reg. VII of 1829. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
XIV (10 Sections).—*A Regulation for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as Paupers in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg. was repealed by s. 2, Reg. XXVIII of 1814.
XV (7 Sections).—*A Regulation for providing for differences of opinion between the Judges of the Provincial Court of Appeal and Court of Circuit established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and prescribing Rules regarding other matters connected with their official situation.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 6 was repealed in part by cl. 7, s. 14, Reg. VIII of 1805. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVI (30 Sections).—*A Regulation for granting commissions to natives to hear and decide civil suits for sums of money or personal property of a value not exceeding fifty sicca rupees; for authorizing the appointment of Head Native Commissioner for the trial of referred causes to the amount or value of one hundred sicca rupees; and prescribing Rules for the trial of the suits and enforcing the decisions which may be passed upon them in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 13, 14, 15, and 16 were repealed by s. 2, Reg. VII of 1829. The whole Reg. was repealed by s. 2, Reg. XXIII of 1814.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XVII (16 SECTIONS).—*A Regulation for establishing a Registry for wills and deeds for the transfer or mortgage of real property in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	Extended by s. 17, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. This Reg. was modified by s 1, Act XXX of 1838. The rule requiring each leaf of the Register book to be attested by the Judge was repealed by cl. 1, s. 6 Reg. XX of 1812. So much of s. 2 as requires Registers to take an oath of office before the Sessions Judge was declared by Act XXIX of 1856 not to apply to Registers appointed under Act XXX of 1838. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by s. 1, Act XVI of 1864 (see Schedule).
XVIII (8 SECTIONS).—*A Regulation for prohibiting British Subjects (except King's Officers serving under the Presidency of Fort William and the Civil Covenanted Servants of the Company and their Military Officers) from residing in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, without the permission of the Governor-General in Council, and without rendering themselves amenable to the Courts of Adálat in Civil Suits, which may be instituted against them by any of the descriptions of persons mentioned in Section 4, Regulation II, 1803, and for enabling British Subjects to recover any demands recoverable under the Regulations, which they may have upon such persons.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Such parts of this Reg. as authorized Judges to take cognizance of summary suits or claims to arrears or exactions of rent, and to refer the same to the Collector for investigation and decision, were repealed by s. 2, Reg. VIII of 1801. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIX (6 SECTIONS).—*A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company from lending money to zemindars, independent talúkdars, or other proprietors of land or dependent talúkdars, or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties: and for prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands in the said provinces for erecting houses or buildings for carrying on manufactures or other purposes without the sanction of the Governor-General in Council.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 3, 4, 5, and 6 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* The whole Reg. was repealed by s. 9, Act XV of 1874.
XX (6 SECTIONS).—*A Regulation for the trial of persons charged with crimes against the State in the provinces ceded by the Nawáb Vizier to the*	This Reg was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XX.—(*Continued.*)	
Honorable the English East India Company. (Passed 24th March.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XXI (9 SECTIONS).—*A Regulation for referring suits to arbitration in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Such parts of s. 4 as prohibit vakíls from being employed as arbitrators were repealed by s. 2, Reg. XXVII of 1814. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XXII (4 SECTIONS).—*A Regulation for the guidance of the Courts of Justice established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company in cases of difference of opinion on the meaning and construction of the Regulations.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXIII (16 SECTIONS).—*A Regulation for establishing in each zillah in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company an office for keeping the records in the native languages which relate to the public revenue, and prescribing Rules for the conduct of the keepers of the records.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg., so far as relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XXIV (19 SECTIONS).—*A Regulation for trying the validity of the titles of persons receiving or claiming a right to receive pensions under the denominations Saleanah, Rozeanah, or any other description of grant in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 17, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa S. 2 was explained by Reg. VI of 1817. Ss. 14 and 15 were repealed by cl. 1, s. 5, Reg. XI of 1813. S. 17 were expressly superseded by s. 3, Reg. XXII of 1806. The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
XXV (39 SECTIONS).—*A Regulation prescribing Rules for the conduct of the Board of Revenue and the Collectors: and for declaring the proprietary right in the lands, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company to be vested in the zemindars and other landholders, under the terms and conditions of the settlement of the land-revenue formed by the Honorable the late Lieutenant-Governor and the Board of Commissioners pursuant to the authority vested in*	So much of this Reg. as relates to the appointment and duties of Díwán was repealed by s. 2, Reg. XV of 1813. Ss. 1—28 were, by s. 18, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 11 was repealed by Act XXV of 1854. S. 12 was modified by s 6, Reg. III of 1829 S. 16 was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XXV.—(*Continued.*)	
them by His Excellency the Most Noble the Governor-General. (Passed 24th March.)	S. 27 was repealed by cl. 1, s. 2, Reg. III of 1822. S. 29 was modified by s. 2, Reg. V of 1805. So much of ss. 37 and 38 as relate to the adjustment of the Government jama on lands exposed to public sale in satisfaction of the decrees of the Civil Courts, together with all extensions of the same, was repealed by ss. 1 and 2, Act IV of 1846. The whole Reg., so far as it applies to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XXVI (61 SECTIONS).—*A Regulation prescribing Rules for the sale and division of lands paying revenue to Government, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	Such parts of this Reg. as require sales of land in execution of decrees of Court to be made by the Collectors were repealed by cl. 1, s. 2, Reg. VII of 1825. Ss. 2 to 11 inclusive and 13 and 14 were repealed by cl. 1, s. 2, Reg XI of 1822. Cl. 4, s. 14, was explained and modified by s. 2, Reg. XVIII of 1814. Ss. 15 to 26 inclusive, and as much of ss. 27 and 28 as relates to the satisfaction of decrees, were repealed by ss. 1 and 2, Act IV of 1846. S. 29 and the remaining sections were repealed by s. 2, Reg. XIX of 1814. Cl. 1, s. 32, was repealed by s. 2, Reg. V of 1810. S. 40 was modified by cl. 1, s. 5, Reg V of 1810. S. 60 was modified by cl. 1, s. 10, Reg. V of 1810. The period allowed for discovery of fraud, &c. by s. 55 was extended to 10 years by s. 2. Reg. XI of 1827. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXVII (53 SECTIONS).—*A Regulation prescribing the process by which the Collector and the Tehsildars are to realize the public revenue payable from the lands in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	Ss. 3, 7, and 19 were explained and modified by s. 2, Reg. XVIII of 1814. Cl. 5 of s. 17, and ss. 19 and 29, were repealed by cl. 1, s. 2, Reg. XI of 1822. So much of s. 31 as requires the issue of dastaks or other forms of demand, or requires the attachment of estates before sale, or restricts the selection of lands for sale, was repealed by cl. 2, s. 2, Reg. XI of 1822. S. 53 was modified by s. 2, Reg. V of 1805; part of the first clause of the same section was repealed by cl. 3, s. 18, Reg. VIII of 1805; the second clause was explained by s. 31, Reg. XXV of 1803; the third clause was explained by ss. 2 and 3, Reg. V of 1808. This Reg. excepting s. 53, was extended by s. 18, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XXVII.—(*Continued.*)	So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XXVIII (38 SECTIONS.)—*A Regulation for empowering landholders and farmers of land in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company to distrain and sell the personal property of their under-farmers and raiyats for arrears of rent or revenue: and for preventing such landholders and farmers of land from confining or inflicting corporal punishment on their under-farmers and raiyats or their sureties.* (Passed 24th March)	Such parts of this Reg. as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824. This Reg. was by s. 19, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 17 and 19 were modified by cl. 1, s. 27, Reg. XX of 1817. Cl. 2, s. 17, was modified by s. 1, Act X of 1846 Ss. 32 and 37 were modified and explained by s. 4 Reg. II of 1805. The whole Reg. save in so far as it repeals any other Reg. or Act, was repealed by s. 1, Act X of 1859.
XXIX (4 SECTIONS).—*A Regulation for defining the duties of the Patwaris in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 20, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg. was repealed by s. 2, Reg. XII of 1817, as regards the Ceded and Conquered Provinces &c.
XXX (12 SECTIONS).—*A Regulation prescribing Rules for the grant of pattas by the landholders in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company to their under-farmers, tenants, and raiyats.* (Passed 24th March.)	Such parts of this Reg. as relate to the adjudication of penalties for the refusal of pattas and receipts for rent, and for the exaction of abwabs &c. were modified by s. 1, Act X of 1859. This Reg. was by s. 20, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 9 and 10, save in so far as they repeal any other Reg. &c., were repealed by s. 1, Act X of 1859. So much as had not been previously repealed was repealed so far as relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1, and 2, *idem.*
XXXI (44 SECTIONS).—*A Regulation for trying the validity of the titles of persons holding or claiming a right to hold lands exempted from the payment of public revenue under grants not being bádshahí or royal grants, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company: for determining the amount of the annual assessment to be imposed on lands so held, which may become subject to the payment of public revenue, and for forming a periodical register of all lands held exempt from the payment of public revenue under grants not being bádshahí or royal.* (Passed 24th March.)	This Reg. was modified by s. 1, Reg. XIV of 1825: and was by s. 21, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of s. 6 as authorizes and requires proprietors and farmers of estates and dependent talúks to collect the rents of land granted exempt from the payment of revenue subsequent to the dates specified therein, to dispossess the grantees and re-annex it to the estate or talúk in which it may be situate, was repealed by s. 28, Act X of 1859.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XXXI.—(*Continued.*)	Ss 7, 8, 9, and 11 were repealed by s. 2, Reg. VIII of 1811; and when this Reg. was repealed by cl. 1, s. 2, Reg. II of 1819, these sections, together with s. 14, were declared repealed by cl. 2, s. 2, Reg. II of 1819. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XXXII (7 Sections).—*A Regulation for preventing affrays respecting disputed boundaries, crops, walls, and water and water-courses, or other works constructed for the improvement of the cultivation of lands in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was amended by s 2, Reg. I of 1822; modified by s 2, Reg. XV of 1824; and extended by s 22, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. S 7 was repealed by cl. 1, s. 2, Reg. XX of 1817. The whole Reg. together with any Regs. that extend it to any places within the Presidency of Bengal, was repealed by s. 1, Act IV of 1840.
XXXIII (8 Sections).—A Regulation for preventing the Embezzlement of public money and the with-holding of public papers by the Native Officers of Government in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company. (*Passed 24th March.*)	This Reg. was by s. 23, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa.
XXXIV (15 Sections).—*A Regulation for determining the rate of interest on money in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was with some modification extended by s. 23, Reg. VIII of 1805, to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 2, 4, and 11 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* Ss. 3, 5, 6, 7, 8, 9, and 10 were repealed by s. 1, Act XXVIII of 1855. So much as had not been previously repealed was repealed by s. 9, Act XV of 1874
XXXV (26 Sections).—*A Regulation for the establishment of an efficient system of Police in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Such parts of this Reg. as place the Police under the Tehsildárs and relate to their Police duties, were repealed by cl. 1, s. 3, Reg. XIV of 1807. Cls. 3, 4, and 5 of s. 3, and s. 10, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* Ss. 4, 5, 6, 22, and 23 were repealed by Act VIII of 1866, save as provided in s. 1, *idem q. v.* Ss 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, and 25 were repealed by cl. 1, s. 2, Reg. XX of 1817. S. 7 was repealed in part by s. 11, Reg. IX of 1807. S. 9 was modified by cl. 1, s. 15, Reg. IX of 1807.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XXXV.—(*Continued.*)	So much of ss. 10 and 16 as respects darogahs and other subordinate officers of Police was repealed by cl. 2, s. 2, Reg. XX of 1817. S. 11 was modified by s. 16, Reg. IX of 1807. S. 16 was explained by s. 2, Reg. VIII of 1822. So much of s. 18 as authorizes the payment of a reward, &c. was repealed by s. 14, Reg. XVI of 1810. So much of s. 26, as declares the whole of the Rules contained in this Reg. relative to the Tehsildárs to be equally applicable to landholders whose estates are *huzúrí-tehsíl*, was repealed by cl. 2, s 3, Reg. XIV of 1807. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXXVI (43 Sections).—*A Regulation for trying the validity of the titles of persons holding or claiming a right to hold lands exempted from the payment of public revenue under bádshahí or royal grants in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, for determining the amount of the annual assessment to be imposed on lands so held which may become subject to the payment of public revenue, and for forming a periodical register of all lands held exempt from the payment of public revenue under bádshahí or royal grants.* (Passed 24th March.)	This Reg. was modified as to the occupant of resumed lands being retained in possession by s. 5, Reg. XIII of 1825. It was also modified by s. 1, Reg. XIV of 1825, and extended with some modification by s. 24, Reg. VIII of 1805, to the Conquered Provinces and the Territory ceded by the Peishwa. Ss. 7, 8, 9, and 11 were repealed by s. 2, Reg. VIII of 1811; and when this Reg was repealed by cl. 1, s. 2, Reg. II of 1819, these sections, together with s. 14, were repealed by cl. 2, s. 2, Reg. II of 1819. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XXXVII (28 Sections).—*A Regulation prescribing Rules respecting the provision of the Honorable the English East India Company's investment in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	The sections of this Reg. corresponding to ss. 2 to 18 of Reg. XXXI of 1793, and to ss. 3 and 4 of Reg. IX of 1801, were repealed by s. 2, Reg. IX of 1829 This Reg. was by s. 25, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Cl. 7, s. 10, was repealed by cl. 1, s. 2, Reg. XX of 1817. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXXVIII (18 Sections).—*A Regulation respecting the abolition of all ráhdarí or transit duties in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and for the collection of the Government customs and the Gunge duties in the said provinces.* (Passed 24th March.)	The whole Reg. was repealed by s. 2, Reg. XI of 1804, and also by cl. 2, s. 2, Reg. IX of 1810.
XXXIX (20 Sections).—*A Regulation for preventing the illicit importation, manufacture, sale or transportation of Salt in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	The whole Reg. was repealed by s. 2, Reg. VI of 1804.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XL (45 SECTIONS).—*A Regulation for restricting and regulating the manufacture and vend of spirituous liquors and intoxicating drugs in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	S. 12 was in part repealed by s. 2, Reg. XX of 1806. The whole Reg. was repealed by s. 2, Reg. X of 1813.
XLI (22 SECTIONS).—*A Regulation for prohibiting the cultivation of the Poppy in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and for preventing the illicit importation of Opium into the said provinces.* (Passed 24th March.)	This Reg. was by s. 27, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 5 and 6 were repealed by cl. 1, s. 2, Reg. XX of 1817. The whole Reg. was repealed by s. 2, Reg. XIII of 1816.
XLII (44 SECTIONS).—*A Regulation for forming a periodical register of the zemindaris and other landed estates paying revenue to Government in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 27, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XLIII (26 SECTIONS).—*A Regulation establishing fees on the institution and trial of suits, and for requiring all law papers in the Civil Courts and certain complaints punishable by the Magistrates to be written on stamped paper; and for levying a percentage on the fees of the authorized pleaders in the Courts of Civil Judicature, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 27, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S 3 was repealed by s. 2, Reg. XXIII of 1814. Ss. 4 to 26 were repealed by s. 2, Reg. I of 1814. Cl. 2, s. 14, was in part repealed by s. 7, Reg. XIII of 1806. Ss. 15 and 23 were in part repealed by s. 3, Reg. VII of 1809. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XLIV (15 SECTIONS).—*A Regulation prescribing rules for the repair of Watercourses, Wells, and of other works constructed for the improvement of the cultivation of the lands, and kept in repair at the public expense, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and for affording encouragement to individuals to construct such works.* (Passed 24th March.)	This Reg. was by s. 28, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 2 to 7 inclusive were repealed by s. 2, Reg. VI of 1806. The whole Reg. was repealed by s. 2, Act XXVI of 1871, save as therein provided.
XLV (52 SECTIONS). — *A Regulation for the reform of the gold, silver, and copper coin of the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 28, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 2 was repealed in part by s. 1, Reg. XXVI of 1817. Ss. 9 and 10 were repealed by ss. 7 and 8, Reg. X of 1807. S. 11 was superseded by cl. 2, s. 9, Reg. II of 1812. S. 17 was modified by s. 2, Reg. IV of 1807.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XLV.—(*Continued.*)	S. 25 and part of s. 26 were repealed by s. 9, Reg XIII of 1807. Ss. 33 and 35 were modified by s. 3, Reg. II of 1824. S. 38 was repealed by s. 7, Reg. II of 1812. S. 43 was repealed by s. 2, Reg. XXI of 1816. Ss. 46, 47 and 48 were repealed by s. 2, Reg. VI of 1820. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XLVI (11 Sections). — *A Regulation for the appointment of the Kâzí-ul-Kozaat or head Kâzí of the provinces of Bengal, Bahár, Orissa, and Benares, to be the head Kâzí of the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 29, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864.
XLVII (8 Sections). — *A Regulation for prohibiting the fixing the Jama of Dependent Talúhs or granting leases or puttas for a term extending beyond the term of the lease of the lands held by the grantor of the putta; or in cases in which the grantor shall hold his lands on a fixed jama in perpetuity, for prohibiting the granting of leases or puttas for a term exceeding ten years; and in cases of lands being disposed of at public sale for the discharge of arrears of public revenue, for rendering null and void all engagements (with certain exceptions) subsisting between the defaulting proprietor and his dependent Talúkdars, farmers and ryots for the payment of rent or revenue on account of the lands so sold, in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 24th March.)	This Reg. was by s. 29, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Cl. 2, s. 2, was repealed by s 2, Reg. V of 1812. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XLVIII (3 Sections). — *A Regulation for amending certain parts of Regulation IV, 1800, entitled "A Regulation for preventing the adulteration of Common or Alimentary Salt by mixing with it Khari-nún and certain other substances.* (Passed 14th April.)	The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby.
XLIX (27 Sections).—*A Regulation for the occasional appointment of Assistant Judges of the Zillah and City Díwání Adálats; for altering and extending the jurisdiction of the Registers of these Courts; for fixing a new limitation of appeals from the Zillah and City Courts to the Provincial Courts of Appeal; for authorizing the appointment of Head Native Commissioners for the trial of referred causes to the amount or value of one hundred sicca rupees,*	Ss. 2 to 8 inclusive were repealed by s. 2, Reg. XXIV of 1814. Ss. 9 to 19 inclusive were repealed by s. 2, Reg. XXIII of 1814. Ss. 20 to 27 inclusive were repealed by s. 2, Reg. XXIV of 1814. S. 22 was modified by cl. 1, s. 9, Reg. XIII of 1810. S. 24 was modified by s. 2, Reg. XXVI of 1814. S. 26 was repealed by cl. 1, s. 3, Reg. XXVI of 1814.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
XLIX.—(*Continued.*)	
and for amending the existing rules concerning the appointment and powers of Native Commissioners for the trial of suits for personal property not exceeding fifty sicca rupees. (Passed 5th May.)	So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
L (6 SECTIONS).—*A Regulation for extending, with Modifications, to the Criminal Courts, the Rules prescribed in Regulation IV, 1793, for procuring the attendance of witnesses and requiring oaths or solemn declarations from witnesses in the Civil Courts, and for explaining those rules in their application to particular forms of oath by the Courts Civil and Criminal.* (Passed 5th May.)	Cl. 2, s. 2, was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
LI (4 SECTIONS).—*A Regulation for empowering the Courts of Circuit established in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and the Nizámat Adálat, to take cognizance of all depending criminal cases, the trial of which had been commenced previous to the period when the Regulations passed on the 24th of March 1803, for the trial of crimes and offences committed in the said provinces, were directed to take effect.* (Passed 9th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
LII (41 SECTIONS).—*A Regulation for establishing a Court of Wards in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 9th June.)	This Reg. was by s. 29, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa: and to Benares, with the addition contained in s. 29, Reg. VIII of 1805, by s. 2, Reg. VI of 1822. So much of s. 9 as relates to Lunatics or Idiots was repealed by s. 1, Act XXXV of 1858. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
LIII (11 SECTIONS).—*A Regulation for determining the punishment to be adjudged by the Criminal Courts of Judicature in cases wherein a discretion is left by the Mahomadan law; for defining the crime and punishment of robbery by open violence; and for declaring what convicts shall be hereafter liable to transportation or to banishment; as well as the punishment of such as may return from transportation or escape from confinement, during the periods of their sentences.* (Passed 21st July.)	This Reg. was by Reg. IX of 1804 extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of this Reg. as authorizes sentences of transportation was repealed by cl. 1, s. 2, Reg. XIV of 1811. So much of cl. 6, s. 2, as vests the Courts of Circuit with authority to require security for good behaviour was repealed by cl. 1, s. 2, Reg. VIII of 1818. Cl. 3, s. 4, was repealed by s. 2, Reg. VIII of 1808. S. 5 was modified by cl. 1, s. 2, Reg. I of 1811, and cl. 1 of the same section was modified by cl. 7, s. 8, Reg. XVII of 1817. Cl. 2, s. 5, was repealed by cl. 1, s. 8, Reg. XVII of 1817.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1803.	
LIII.—(*Continued.*)	
	Cl. 5, s 7, was repealed by s. 16, Reg. XVII of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q v.*
LIV (2 SECTIONS.)—*A Regulation for postponing the operation of Section 20, Regulation XXXV, 1793, within the zillah of Chittagong.* (Passed 24th November.)	This whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
1804.	
I (26 SECTIONS).—*A Regulation for the better Management of the invalid Jagírdár Establishments and of the Invalid Pension Establishments.* (Passed 23rd February.)	So much of this Reg. as provides that native Invalid Officers not fit for garrison duty may be transfer ed to the Jagírdár Establishment, was repealed by s. 2, Reg. II of 1811. The restriction in cl. 1, s. 22, was annulled by s. 20, Reg. XI of 1806. Ss. 23, 24, 25 and 26 were repealed by s. 2, Act XXIII of 1871, save as therein provided. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
II (8 SECTIONS).—*A Regulation for altering the periods of the half-yearly Gaol Deliveries in the divisions of Calcutta, Múrshedabád, Patna and Benares, and for providing a quarterly Gaol Delivery in the Zillahs of the 24-Parganas, Dacca Jelalpore, and Múrshedabád.* (Passed 23rd February.)	S. 3 was in part repealed by s. 5, Reg. XVII of 1825. So much of s. 4 as enacts that the Jail Deliveries of the 24-Parganas shall be held quarterly, was repealed by s. 3, Reg. XI of 1814. Such part of s. 7, as fixes the order of holding the Jail Deliveries of the Patna Division was repealed by s. 3, Reg XVII of 1825, and cl. 1 of the same section was repealed by s 3. *idem.* The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (11 SECTIONS).—*A Regulation for providing against resistance to the processes of the Zillah Criminal Courts and Police officers, as well as for compelling the appearance of persons charged with acts of a criminal nature who may abscond or otherwise evade the process issued against them: for rendering prosecutions instituted for the recovery of losses sustained by theft and robbery cognizable in the Courts of Civil Judicature: and for ascertaining the responsibility, in such cases, of tehsíldárs of places held khám: for amending certain parts of Regulation VI, 1803: for preventing the offence of dhárna: and for preventing the tribe of Ranjekúmars killing or causing the death of their female children—in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company.* (Passed 8th March.)	Ss. 2 and 4 were modified by cl. 2, s. 26, Reg. XX of 1817. Ss. 9 and 10 were repealed by s. 2, Reg. VII of 1820. The whole Reg. save in so far as it repeals any other Reg. &c. was repealed by Act XVII of 1862, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1804.	
IV (7 SECTIONS).—*A Regulation for the Administration of Justice in criminal cases in the Zillah of Cuttack.* (Passed 3rd May.)	The proviso in s. 7 was repealed by Act XVII of 1862, *q. v.* The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
V (26 SECTIONS).—*A Regulation to provide for the appointment and removal of the Native Officers of Government in the Judicial, Revenue and Commercial Departments, and in the Departments of Salt, Opium and Customs: also to make further provision for administering the oath prescribed by the Statute 33rd Geo. III. Cap. 52.* (Passed 16th August.)	This Reg. and any other Reg. in force for the appointment &c. of native officers was modified by s. 2, Reg. VIII of 1809. This Reg. was also modified by s. 2, Reg. XI of 1826: and was by s. 15, Reg. VIII of 1805, extended to the Provinces Ceded by the Peishwa and the Conquered Provinces. Such part of s. 12, as relates to the appointment and removal of Náibs, Jemadárs, and Burkundazes, was repealed by cl. 2, s. 3, Reg. XX of 1817. So much of s. 19. as refers to Native Commissioners, was repealed by s. 2, Reg. XXIII of 1814. Ss. 25 and 26 were repealed by s. 1, Act XII of 1873, save as therein provided. The whole Reg. so far as it relates to the appointment of native officers employed in the Land Revenue Department of the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
VI (19 SECTIONS).—*A Regulation for rescinding Regulation XXXIX, 1803: for establishing rules for levying a duty on the importation and exportation of Salt in the provinces ceded to the Honorable Company by the Nawáb Vizier, in the Conquered Provinces in the Doab and on the right bank of the Jumna and in the province of Benares: for reducing the rate of duty established by Clause sixth, Section 4, Regulation VI, 1801, on the importation of Salumba and Balumba Salt into the province of Benares: and for withdrawing the prohibition contained in Section 6 of that Regulation on the Manufacture of Salt within the province of Benares.* (Passed 25th August.)	Such parts of this Reg. as relate to a duty on the importation and exportation of salt in the Ceded and Conquered Provinces and in Benares, were repealed by cl. 1, s. 18, Reg. IX of 1810. S. 4 was repealed in part by cl. 2, s. 35, Reg. XI of 1804. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s 1, *idem*, *q. v.*
VII (3 SECTIONS).—*A Regulation for determining the rates of duty to be levied under Sections 4 and 7, Regulation VI, 1804, on the importation and exportation of Salt in the provinces ceded to the Honorable Company by the Nawáb Vizier, and in the Conquered Provinces situated within the Doab and the right bank of the river Jumna.* (Passed 15th October.)	Such parts of this Reg. as relate to a duty upon the importation and exportation of salt in the Ceded and Conquered Provinces and in Benares were repealed by cl. 1, s. 18, Reg. IX of 1810. S. 2 was repealed in part by cl. 2, s. 35, Reg. XI of 1804. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1804.	
VIII (3 SECTIONS).—*A Regulation for transferring the Zillahs of Allahabad and Goruckpúr from the division of the Provincial Court of Appeal and the Court of Circuit for the division of the Provinces Ceded to the Honorable the English East India Company by the Nawáb Vizier; and for annexing those Zillahs to the division of the Provincial Court of Appeal and the Court of Circuit for the division of Benares.* (Passed 27th November.)	Such parts of this Reg. as declare the Zillah of Goruckpúr subject to the jurisdiction of the Court of Circuit and Provincial Court of Appeal for the province of Benares, were repealed by s. 2, Reg. XVII of 1825. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IX (12 SECTIONS).—*A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the division of the Ceded Provinces: for the administration of Justice in Criminal Cases, in the Conquered Provinces in the Doab and on the right bank of the river Jumna and in the territory Ceded to the Honorable the English East India Company in Bundlekund by the Peishwa.* (Passed 14th December.)	Act XVII of 1862 repealed (save in so far as they repeal any former Reg. &c.) so much of this Reg. as extends the whole or any part of Regs. VI, VII, VIII, XX, XXXV and LIII of 1803 which are repealed by the said Act XVIII, to the Districts mentioned in ss. 3 and 4; also ss. 5 and 6 and the proviso in s. 11. So much as had not been previously repealed was repealed by s. 2, Act X of 1872 (see Schedule I.)
X (4 SECTIONS.)—A Regulation for declaring the powers of the Governor-General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-Martial. (*Passed 14th December.*)	In s. 4, the words and figures "or before any special Court appointed for the trial of such offences, under Regulation IV, 1799, and Regulation XX, 1803" were repealed by s. 1, Act XVI of 1874, save as therein provided. The whole of this Reg. so far as it is not modified by Act V of 1841, was declared to be in force in the Panjáb by s 3, Act IV of 1872. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874. It was previously declared to be in force in the Santhal Parganas—see Note to page 1. It is in force, except the first section and with some modifications, in the Hill District of Arakan, see "*The Arakan Hill District Laws Regulation.*" page 88 of Part I of the *Gazette of India* of the 20th February 1875.
XI (53 SECTIONS).—*A Regulation for rescinding Regulation XXXVIII,* 1803, *and for providing rules for the collection of the Government customs in the Provinces ceded to the Honorable the English East India Company by the Nawáb Vizier and in the Conquered Provinces situated within the Doab and on the right bank of the river Jumna, including the territory in Bundlekund ceded to the Honorable the English East India Company by the Peishwa.* (Passed 14th December.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1805.	
I (14 SECTIONS).—*A Regulation for empowering the Court of Sádr Díwání Adálat to hear and determine appeals from the decisions of the Courts of Civil Justice established under the authority of the British Government at Chandernagore and Chinsurah.* (Passed 14th February.)	Cls. 2 and 3 of s. 2 were repealed by s. 2, Reg. IX of 1809. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (14 SECTIONS).—*A Regulation to explain the existing limitations of time for the cognizance of suits in the Civil Courts of Justice; to provide further limitations with respect to certain suits, regular and summary; and to make other provisions relative to the admission and trial of Original Suits and of Appeals.* (Passed 18th February.)	S. 4 was by s. 19, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa, and was repealed, except in so far as it repeals any other Reg. &c. by s. 1, Act X of 1859. S. 5 was by s. 22, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. Ss. 8, 9, 10, 11, 12, and 14 were repealed by Act X of 1861, in so far as they are applicable to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c. The provisions of ss. 11 and 12 were by s. 8, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 10 was modified by s. 2, Reg. XXVI of 1814: and was by s. 10, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. S. 11 was repealed by cl. 1, s. 3, Reg. XXVI of 1814. S. 12 was modified by cl. 1, s. 8, Reg. XXVI of 1814. Ss. 13 and 14 were by s. 15, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (7 SECTIONS).—*A Regulation to make further provision for the exemplary punishment of Robbery by open violence.* (Passed 28th March.)	This Reg. was by s. 14, Reg. VIII of 1805, extended to the Conquered Provinces and the Territory Ceded by the Peishwa S. 6 modified by cl. 1, s. 2, Reg. I of 1811. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VI (3 SECTIONS).—*A Regulation for extending to the Province of Benares Regulation XXXI, 1793, entitled "A Regulation for re-enacting with Modifications and Amendments the rules passed on the 23rd July 1787 and subsequent dates for the conduct of the Commercial Residents and Agents and all persons employed or concerned in the provision of the Company's investment"—and also for exempting from duty all goods and articles provided in the Province of Benares on account of the investment of the Honorable East India Company.* (Passed 25th April.)	S. 2 was modified by s. 2, Reg. IX of 1829. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1805.	
V (7 SECTIONS).—*A Regulation for forming the settlement of the Land Revenue of the Provinces ceded to the Honorable the English East India Company by the Nawáb Vizier for the years* 1213, 1214, *and* 1215 *of the Fassili Era.* (Passed 22nd April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VI (41 SECTIONS).—*A Regulation for abolishing the duties levied by Government on goods and other articles sold in the Bazaárs and Gunjes in the Provinces ceded by the Nawáb Vizier to the Honorable the English East India Company, and in the Conquered Provinces situated within the Doab and on the right bank of the river Jumna, including the territory in Bundlekund ceded to the Honorable the English East India Company by the Peishwa: and for establishing duties on certain articles imported into the cities and principal towns situated within the provinces and territory aforesaid in lieu of the duties above-mentioned.* (Passed 27th June.)	The whole Reg. was repealed by s. 2, Reg. X of 1810.
VII (5 SECTIONS).—*A Regulation for empowering the Governor-General in Council to grant a temporary exemption to covenanted Civil Servants of the Company, holding certain offices, from the obligations of that part of the oath prescribed to be taken by certain descriptions of public officers, which prohibits their being concerned in commercial transactions.* (Passed 14th July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VIII (31 SECTIONS).—*A Regulation for extending to the Conquered Provinces situated within the Doab and on the right bank of the river Jumna and to the territory ceded to the Honorable the English East India Company in Bundlekund by the Peishwa, such of the laws and Regulations established for the internal government of the Provinces ceded by the Nawáb Vizier to the Honorable the English East India Company as have not been already extended to those territories, and for revising and amending certain parts of the said laws and Regulations.* (Passed 11th July.)	So much of this Reg. as extends the powers of the Sádr Díwání Adálat and Nizámat Adálat at Calcutta to the Province of Benares and to the Ceded and Conquered Provinces was repealed by s. 2, Reg. VI of 1831. So much as extends to the Conquered Provinces excepting Cuttack and to Bundlekund, ss. 7, 8, 9, and 11, Reg. XXXI of 1803, and ss. 7, 8, 9, and 11, Reg. XXXVI of 1803, was repealed by s. 2, Reg. VIII of 1811. So much as relates to revenue-free (la-kheraj) land was modified by s. 1, Reg. XIV of 1825. The whole Reg. in so far as relates to the Parganas of Kûnch and Calpí in the Zillah of Jaloun, was repealed by s. 1, Act XXX of 1860. S. 2, cl. 2 of s. 3, s. 4, and cl. 2 of s. 6, were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much of cl. 1, s. 3, as declares that the northern and southern divisions of Saharanpore shall constitute two distinct civil jurisdictions was repealed by s. 2, Reg. XIV of 1806.

No of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1805.	
VIII.—(*Continued.*)	Cls 5, 6, and 7 of s. 6; ss. 11, 12, and 16; and cls. 2, 3, and 4 of s. 17 (corresponding in part to ss. 2 to 8 inclusive and ss. 20 to 27 inclusive of Reg XLIX of 1803), were repealed by s. 2, Reg. XXIV of 1814 S. 6, so much of s. 7 as extends Reg III of 1803, and cl. 1, s. 16 were repealed by s. 2, Act VI of 1817 (see Schedule). Cls. 2 and 3 of s. 9 were modified by s. 2, Reg. XXVI of 1814 (See also cl. 1, s 4, *idem.*) S. 13 was repealed by s. 1, Act I. of 1860. S. 14 save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* S. 17 was modified by s. 1, Act XXX of 1838: and repealed so far as it relates to Reg. XVII of 1803 and save in so far as it repeals any prior Reg. &c. by s. 1, Act XVI of 1864 (see Schedule). So much of s. 18 as extends s. 11, Reg. XXV of 1803 to the Provinces and territories specified in s. 3 was repealed by Act XXV of 1854. S. 19 save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859. So much of s. 21, as authorizes and requires proprietors and farmers of estates and dependent talúks to collect the rents of land granted exempt from the payment of revenue subsequent to the dates therein specified, to dispossess the grantees and re-annex the land to the estate or talúk in which it may be situate, was repealed by s. 28, Act X of 1859. Cl 1, s. 23 in so far as it extends ss. 3, 5, 6, 7, 8, 9, and 10 of Reg. XXXIV of 1803, was repealed by s. 1, Act XXVIII of 1855. S 26 was repealed by s. 2, Reg. X of 1813. S. 28 was repealed by s 2, Act XXVI of 1871, save as therein provided. S. 29 was extended to Benares by s. 2, Reg. VI of 1822. So much of the same section as relates to lunatics or idiots was repealed by s. 1, Act XXXV of 1858—and cls. 8, 9, 10, 11, 12, 13, and 14 of the same section were repealed by s. 1, Act XL of 1858 So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2 *idem.*
IX (29 SECTIONS).—*A Regulation for enacting into a Regulation certain articles of a Proclamation to be issued in the Conquered Provinces situated within the Doab and on the right bank of the river Jumna and in the territory ceded to the Honorable the English East India Company in Bundlekund by the Peishwa.* (Passed 11th July.)	So much of ss. 27 and 28 as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of the decrees of the Civil Courts together with all extension of the same was repealed by ss. 1 and 2, Act IV of 1846. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1805.	
X (2 SECTIONS).—*A Regulation for amending the constitution of the Courts of Sádr Diwání Adálat and Nizámát Adálat as far as relates to the appointment of the Chief Judge of those Courts.* (Passed 25th July.)	S. 2 was repealed by s. 2, Reg. XV of 1807. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XI (4 SECTIONS).—*A Regulation for extending to the Conquered Provinces situated within the Doab and on the right bank of the river Jumna, and to the territories ceded to the Honorable the English East India Company in Bundlekund by the Péishwa, Regulation XLV, 1803, entitled "A Regulation for the reform of the gold, silver, and copper coin in the provinces ceded by the Nawáb Vizier to the Honorable the English East India Company:" also for providing for the appointment of the native officers of Government employed in the mint established at Furruckabad, under Regulation XLV, 1803; and for extending to such native officers such parts of Regulation V, 1804, as provide for the appointment and removal of the native officers of Government in certain departments.* (Passed 15th August.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XII (37 SECTIONS).—A Regulation for the settlement and collection of the public revenue in the Zillah of Cuttack including the Parganas of Puttespore, Kummardíchour, and Bagrae, at present included in the Zillah of Midnapore. (*Passed 5th September.*)	Such parts of this Reg. as relate to lakheraj lands were modified by s. 1, Reg. XIV of 1825. Ss. 12, 13, 14, 15, and 16 were repealed by s. 1, Act XVI of 1874, save as therein provided. The operation of s. 13 was suspended by s. 8, Reg. IV of 1807. S. 15 and part of s. 16 were repealed by s. 3, Reg. XIII of 1807. So much of s. 24 as authorizes and requires proprietors and farmers of estates and dependent talúks to collect the rents of land granted exempt from the payment of revenue subsequent to the dates specified therein, to dispossess the grantees and re-annex the land to the estate or talúk in which it may be situate was repealed by s. 28, Act X of 1859. So much of s. 31 as provides for the continuance of the duties levied from pilgrims at Jagarnath was repealed by s. 1, Act X of 1840. S. 32 was modified by s. 1, Act XXX of 1838; and repealed, save in so far as it repeals any prior Reg. &c. by s. 1, Act XVI of 1864 (see Schedule.)
XIII (13 SECTIONS).—A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zillah of Cuttack, and for amending certain provisions contained in Regulation IV, 1804. (*Passed 5th September.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—in section two, the words and figures "formed into one zillah, instead of two zillahs, as prescribed in Regulation IV, 1804, and shall be," and s. 12.

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1805.	
XIV (11 Sections).—A Regulation for the administration of justice in Civil Cases in the Zillah of Cuttack. (*Passed 5th September.*)	Cls. 3, 4, 5, and 6 of s. 9, and so much of s. 11, as extends the Usury laws were repealed by s. 1, Act XXVIII of 1855. S. 11 except the proviso was repealed by Act X of 1861, in so far as it applies to the Civil Courts and to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. The whole Reg. except so much of s. 11 as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.
XV (6 Sections).—*A Regulation for the appointment of the Mahomadan and Hindu Law Officers of the Zillah and City Courts to be Commissioners for the trial of referred causes to the amount or value of one hundred sicca rupees; and to make further provision for the appointment of Head Native Commissioners in the several Zillahs and Cities.* (Passed 12th September.)	The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XVI (13 Sections).—*A Regulation for extending the jurisdiction of the Court of Circuit for the division of Calcutta, and of the Court of Nizámat Adálat, over the Settlements of Chandernagore and Chinsurah, in certain cases; and for defining the powers and duties of the Superintendent of Chandernagore and Commissioner of Chinsurah in his capacity of Magistrate for those Settlements.* (Passed 19th September.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVII (5 Sections).—*A Regulation for modifying the rules contained in Regulation VIII, 1793, respecting the management of joint undivided estates.* (Passed 24th October.)	S. 5 was repealed by s. 1, Reg. XL of 1858. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XVIII (10 Sections).—*A Regulation for the appointment of a Magistrate of the Jangal Mahals in Zillahs Birbhúm, Bardwan and Midnapore; and for declaring and extending the rules prescribed for zemindárs and managers of zamindáris intrusted with the Police in those mahals.* (Passed 13th December.)	So much of this Reg. as relates to the constitution of the Zillahs of Ramghur and Jangal Mahals was repealed by s. 2, Reg. XIII of 1833 So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIX (7 Sections).—*A Regulation for defining the form of address and channel of application to be observed by public officers in the Judicial, Revenue and Commercial Departments, who may have occasion in the discharge of their official duties to make applications to His Highness the Nawáb Nasser-ul-Múlk Názim of Bengal.* (Passed 19th December).	The whole Reg. was repealed by s. 1, Act XXVII of 1854.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1806.	
I (10 SECTIONS).—*A Regulation for abolishing the Jurisdiction of Zillah Múrshedabád, and annexing the Mahals composing it to the jurisdictions of the City of Múrshedabád and Zillah Bírbhum; for altering the jurisdiction of the Courts of Circuit and Provincial Courts of Appeal of the divisions of Calcutta and Múrshedabád; for fixing the order of holding the half-yearly Gaol Deliveries in those divisions and in the divisions of Benares and Bareilly; for rescinding such parts of the existing Regulations as restrict the senior Judges of the Court of Circuit from proceeding upon the circuit in their respective divisions and for extending the authority of the Courts of Nizámat Adálat and Sádr Díwání Adálat in certain cases.* (Passed 27th March.)	Ss. 4 and 5 were repealed by s. 3, Reg. XVII of 1825. Ss. 6, 7, 8, and 9 have in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* S. 8 was repealed by cl. 1, s. 3, Reg. V of 1814. S. 10 was repealed by s. 1, Act L of 1860. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
II (12 SECTIONS).—*A Regulation for explaining and amending in certain cases the rules of process to be observed by the Civil Courts of Judicature.* (Passed 27th March.)	S. 9 was repealed by s. 2, Reg. XXIII of 1814. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
III (5 SECTIONS).—*A Regulation for defining the weight and standard of the Silver Coin established in the Ceded and Conquered Provinces by Regulation XLV*, 1803, *and Regulation XI*, 1805, *and the weight of the Copper Coin established in the said provinces by the Regulations above-mentioned: also for fixing a table of rates for regulating the receipt and payment of rupees of different descriptions during the periods prescribed by Regulation XLV*, 1803, *for the receipt and payment of rupees not being the rupees declared by that Regulation and by Regulation XI*, 1805, *to be the established and legal Silver Coin within the Ceded and Conquered Provinces.* (Passed 27th March.)	The operation of this Reg. was postponed by s. 2, Reg. IV of 1807. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
IV (23 SECTIONS).—*A Regulation for levying a tax from pilgrims resorting to the temple of Jagarnath and for the superintendence and management of the temple.* (Passed 3rd April.)	The whole Reg. was repealed by s. 1, Act X of 1840.
V (4 SECTIONS).—*A Regulation for preventing persons from evading payment of the tax established by Regulation IV*, 1806. (Passed 17th April.)	The whole Reg. was repealed by s. 1, Act X of 1840.
VI (13 SECTIONS).—*A Regulation for the more effectual repair of Embankments.* (Passed 17th April.)	Such parts of this Reg. as relate to the appointment and duties of Committees of Embankments were repealed by s. 2, Reg. XI of 1829. This whole Reg. except in so far as it repeals any former Reg. was repealed by s. 1, Act XXXII of 1855, so far as relates to the territories under the Lieutenant-Governor of Bengal.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1806.	
VI.—(*Continued.*)	So much as had not been previously repealed was repealed, so far as it relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem*; and was wholly repealed by s. 1, Act XVI of 1874, save as therein provided.
VII (8 SECTIONS).—*A Regulation for re-establishing a Court of Civil Judicature in the vicinity of Calcutta and for defining its jurisdiction.* (Passed 26th April.)	Such parts of this Reg. as establish a Court of Civil Judicature *exclusively* were repealed by cl. 1, s. 3, Reg. XIV of 1811. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
VIII (19 SECTIONS).—*A Regulation to amend the existing rules for receiving complaints in the City and Zillah Civil Courts, against Collectors of the Land Revenue and Customs, Commercial Residents, and other European Public Officers declared amenable to those Courts for acts done in their official capacity in opposition to any published Regulation: and to make further provision for a special inquiry in certain cases of charge or information against any such officers.* (Passed 12th May.)	Ss. 2 and 3 were repealed by s. 2, Reg. II of 1814. Ss. 4 to 19 were repealed by s. 2, Reg. XVII of 1813, and by s. 1, Act XXVI of 1839. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
IX (5 SECTIONS).—*A Regulation for giving further effect to the rules passed by Government on the 14th July 1801, for providing more effectually against the illicit manufacture, importation, transportation and sale of Sall.* (Passed 5th June.)	The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby.
X (10 SECTIONS).—*A Regulation for extending to the Judicial Department such parts of Regulation VIII, 1806, as are applicable to charges or information against the European Public Officers employed in that department, and for making further provision in such cases.* (Passed 19th June.)	The whole Reg. except such part as requires security from persons preferring charges against Law Officers and ministerial officers, was repealed by s. 2, Reg. XVII of 1813, and by s. 1, Act XXVI of 1839. So much of s. 10 as relates to charges of corruption and extortion against the Hindu and Mohammadan Law Officers, save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XI (20 SECTIONS).—A Regulation for facilitating the progress of detachments of Troops through the Company's territories: for affording any requisite assistance to persons travelling through those territories: and for extending the rules contained in Sections 68 and 72, Regulation XXII, 1795, in Clauses fifth and sixth, Section 14. Regulation VIII, 1805, and in Section 31 of that Regulation, to the whole of the Company's provinces subject to the imme-	Such part of this Reg. as authorizes Collectors &c. to give their official aid in procuring coolies for facilitating the march of troops and the progress of officials &c. was repealed by s. 2, Reg. III of 1820. Cl. 8, s. 9, was repealed by Act XVIII of 1835. Ss. 9, 11, and 12 were repealed by s. 1, Act XVI of 1874, save as therein provided. S. 20 was repealed by s. 2, Reg. II of 1811. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts. See Schedules IV and V of Act XV of 1874. It had previously been declared to be

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1806.	
XI.—(*Continued.*)	
diate government of the Presidency of Fort William: for the guidance of the Civil officers in applying for guards from the regular Battalions: and for modifying the rule contained in Clause first, Section 12, Regulation I, 1804. (*Passed 3rd July.*)	in force in the Santhal Parganas. See Note to page 1.
XII (7 SECTIONS).—*A Regulation for annexing the parganas of Sonk, Sonsa and Sahar situated on the right bank of the river Jumna, to the jurisdiction of the Zillah of Agra, and for extending to those parganas the Laws and Regulations established for the internal government of the Ceded and Conquered Provinces.* (Passed 3rd July.)	By Act X of 1861 was repealed so much of this Reg. as extends to the territories therein named the provisions of Reg. VIII of 1805 and the Regulations therein referred to, which were repealed by the said Act X of 1861, in so far as relates to the territories to which Act VIII of 1859 has been or may be extended, always excepting such portions as repealed any other Reg &c. By Act XVII of 1862 (*q. v.*) was repealed so much of s. 3 as extends these parts of Regs. IX of 1804 and VIII of 1805 and the other Regs. therein referred to, which were repealed by the said Act XVII. The whole Reg. was repealed by s. 9, Act XV of 1874.
XIII (13 SECTIONS).—*A Regulation for more effectually providing against the offence of forging the public Stamps or stamped paper and for preventing the sale of stamped paper without a written authority: also for explaining the existing Rules respecting copies of judicial and revenue papers.* (Passed 10th July 1806.)	S. 2 was in part repealed by s. 2, Reg. VIII of 1807. Ss 2, 10, and 11 were repealed in part by s. 2, Reg. VII of 1809. Ss. 10 and 11 were repealed by s. 3, Reg. VIII of 1807. S 10 was repealed by cl. 1, s. 2, Reg. XVI of 1813. The whole Reg. was repealed by s. 2, Reg. I of 1814.
XIV (4 SECTIONS).—*A Regulation for abolishing the Court of Diwáni Adálat of the Zillah of the northern division of Saharanpore: and for incorporating the jurisdiction of that Court with the Civil Jurisdiction of the Court established in the southern division of Saharanpore.* (Passed 23rd July.)	The whole Reg. was repealed by s. 9, Act XV of 1874.
XV (6 SECTIONS).—*A Regulation for the amendment of certain parts of the provisions contained in clauses second and third, section 2, Regulation II, 1796, and clauses second and third, section 19, Regulation VI, 1803: and of the rule contained in section 7, Regulation V of 1799.* (Passed 24th July.)	This Reg. was modified by cl. 1, s. 2, Reg. XX of 1825. So much of s. 2 as requires the Magistrate to transmit copies of the depositions &c. to the Secretary to Government was repealed by Act XXIII of 1854. S. 6 was repealed by s. 53, Act VIII of 1855. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q v*
XVI (5 SECTIONS).—*A Regulation for defining the form of address to be observed by the public officers of Government in making applications to the members of the family of His Highness the Nawáb Nassur-ul-Múlk the Nazim of Bengal.* (Passed 4th September.)	The whole Reg. was repealed by s. 1, Act XXVII of 1854.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1806.	
XVII (8 Sections).—A Regulation for extending to the Province of Benares the rates of interest on future loans and provisions relative thereto, contained in Regulation XV, 1793: also for a general extension of the period fixed by Regulations I, 1798 and XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of Bai-bil-wafa, Katkabala, or other similar designation. (*Passed 11th September.*)	S. 2 (in so far as it extends to Benares ss. 4, and 6 to 11 of Reg. XV of 1793) and ss. 4 and 6 were repealed by s. 1, Act XXVIII of 1855. Ss. 7 and 8 were declared to be in force in the Panjáb by s. 3, Act IV of 1872—see Schedule I. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874. It was previously declared to be in force in the Santhal Parganas—See Note to page 1.
XVIII (9 Sections).—*A Regulation for collecting a toll on boats passing through the Eastern Canal, which connects the river Húghlí with the Sandarbans, and through the canals commonly called the Banka Nullah, the Kúnjapore Khâl, the Gowah Khâl and the Narrainpore Khâl.* (Passed 16th October.)	So much of this Reg. as relates to the Eastern Canal commonly called "Tolly's Nullah" was repealed by s. 1, Act XXII of 1836. By s. 2, Act V (B. C.) of 1864 this Reg. shall cease to apply to any navigable channel to which Act V may be extended under the said section. The whole Reg. was repealed by s. 1, Act XII of 1873, save as therein provided.
XIX (4 Sections).—*A Regulation for modifying the Rules under which, as established by Regulation XI,* 1800, *and Regulation V,* 1802, *a duty of three and a half per cent. is at present levied on brandy, gin, rum and other spirits on importation by sea: for subjecting spirits of all kinds (Batavia Arrack and Arrack imported into Calcutta from Bencoolen excepted) to the assessment of that duty at a fixed valuation per pipe, on being imported by sea at the port of Calcutta or at any of the foreign settlements on the river Húghlí: and for amending the rule contained in clause sixteenth, section 5, Regulation XXXIX,* 1795, *respecting the deduction, to be allowed for leakage of liquors imported in casks.* (Passed 16th October.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. IX of 1810.
XX (5 Sections).—*A Regulation for modifying the existing rules respecting the establishment of shops for the manufacture and sale of spirituous liquors in the vicinity of the Military Cantonments at which Europeans are quartered.* (Passed 23rd October.)	The whole Reg. was repealed by s. 2, Reg. X of 1813.
XXI (5 Sections).—*A Regulation for making certain alterations in the office of Tehsíldar in the Provinces of Benares, and in the Ceded and Conquered Provinces on the death, resignation or removal of any persons by whom those offices are at present held.* (Passed 2nd December.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1806.	
XXII (12 SECTIONS).—*A Regulation for modifying the rules hitherto observed in the admission and payment of claims to Pensions:* (Passed 18th December.)	The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
1807.	
I (7 SECTIONS).—*A Regulation for defining the duties to be performed and powers exercised by single Judges of the Provincial Courts of Appeal in the absence of the other Judges of the Court.* (Passed 29th January.)	The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
II (6 SECTIONS).—*A Regulation to provide more effectually for the punishment of Perjury, Subornation of Perjury and Forgery.* (Passed 29th January.)	The provisions of this Reg. for the punishment of perjury and forgery were modified by cl. 1, s. 9, Reg. XVII of 1817. So much of s. 3 as adds the punishment of "*godna*" to sentences of imprisonment for a limited period was repealed by cl. 1, s. 12, Reg. XVII of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
III (12 SECTIONS).—*A Regulation for modifying certain parts of Regulation LX, 1800, for the foundation of a College at Fort William.* (Passed 5th February.)	The whole Reg. was repealed by s. 2, Reg. XX of 1814.
IV (10 SECTIONS).—*A Regulation for determining the rates at which rupees of sorts shall be received and issued in the Ceded and Conquered Provinces, during the existence of the depending Settlement of the Land Revenue in those Provinces.* (Passed 19th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (4 SECTIONS).—*A Regulation for amending Regulation VI, 1799, providing rules for the cultivation of the Poppy and the provision of Opium in the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 19th March.)	The whole Reg. was repealed by s. 2, Reg. XIII of 1816.
VI (3 SECTIONS).—*A Regulation for restricting the partition of small Estates paying revenue to Government.* (Passed 2nd April.)	The whole Reg. was repealed by s. 2, Reg. V of 1810, and again by s. 2, Reg. XIX of 1814.
VII (6 SECTIONS).—*A Regulation for making certain alterations in the provisions which have hitherto been in force in the Province of Benares, respecting persons paying or wishing to pay their revenue directly to the Treasury of the Collector, instead of paying it through the medium of a Tehsildar.* (Passed 16th April.)	Such part of s. 5 as makes a zemindár, becoming *huzúrí*, responsible for the Police was repealed by cl. 2, s. 2, Reg. XIV of 1807. So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1807.	
VIII (5 SECTIONS).—*A Regulation for modifying certain parts of Regulation XIII*, 1806, *respecting Stamped Paper.* (Passed 16th April.)	S. 4 was repealed in part by s. 2, Reg. VII of 1809. The whole Reg. was repealed by s. 2, Reg. I of 1814.
IX (26 SECTIONS).—*A Regulation for explaining and amending the existing rules of criminal process and defining in certain cases the powers and duties of the Police Officers of the Zillah and City Magistrates and of their Assistants, of the Courts of Circuit and of the Court of Nizámat Adálat.* (Passed 12th May.)	S 6 was repealed in part by s. 1, Act II of 1856. Ss. 12, 13, 15, 16, 17 and 18 were repealed by cl. 1, s. 2, Reg. XX of 1817. So much of s. 14 as respects darogahs and other subordinate officers of Police was repealed by cl. 2, s. 2, Reg. XX of 1817. Cls. 2 and 3, s. 14, were modified by s. 4, Reg. VIII of 1811. S. 20 was modified by cl. 3, s. 2, Reg. III of 1821. S 23 was modified by cl. 1, s. 3, Reg. VI of 1818. S. 24 was modified by s. 3, Reg. IX of 1831. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
X (10 SECTIONS).—*A Regulation for the conclusion of the ensuing Settlement in the Ceded and Conquered Provinces.* (Passed 11th June.)	Ss. 5 and 6 were in part repealed by s. 2, Reg. VI of 1808. Such part of s. 5 as declares provisionally that the jama assessed on estates of actual proprietors in the Ceded Provinces shall be fixed for ever, was repealed by s. 2, Reg. IX of 1812. The same provisions of ss. 5 and 6 were repealed in their application to the Conquered Provinces &c. by s. 2, Reg. X of 1812. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q v.*
XI (3 SECTIONS).—*A Regulation for vesting the control of the Customs with certain exceptions in the Board of Commissioners appointed under Regulation X*, 1807. (Passed 14th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XII (21 SECTIONS).—*A Regulation for the appointment of Amins of Police in the Provinces of Bengal, Bahár, and Orissa, and for defining the duties to be performed by them: also for obtaining a complete register of guards and Watchmen employed by landholders, farmers and others, and declaring the responsibility of their employers for the conduct of such servants in certain cases.* (Passed 19th June.)	Such parts of this Reg. as relate to the appointment of *Amins* of Police were repealed by s. 6, Reg. VI of 1810. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIII (15 SECTIONS).—*A Regulation for modifying certain parts of Regulation XXXV*, 1793, *Regulation XLV*, 1803, *and Regulation XII*, 1805, *relative to engagements for rupees or gold mohurs not being of the established coinage.* (Passed 25th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1807.	
XIV (21 SECTIONS).—*A Regulation for amending the system of Police established in the Province of Benares and in the Ceded and Conquered Provinces within the divisions of Bareilly and Benares; also for extending to those Provinces the provision contained in Regulation XII,* 1807, *for the appointment of Amíns of Police.* (Passed 2nd July.)	Such parts of this Reg. as relate to the appointment of *Amíns* of Police were repealed by s. 6, Reg. VI of 1810. Ss. 2, 3, 18 and so much of s. 17 as had not been already repealed, were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* Ss. 6 and 7 were modified by cl. 1, s. 8, Reg. XVII of 1816. Ss. 9 and 12 were repealed by cl. 1, s. 2, Reg. XX of 1817. Cls. 7, 8, 9, 10, 11, 12 of s. 11 and ss. 20 and 21, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* Cl. 5, s. 11, was repealed by s. 2, Act XXII of 1867, so far as applies to public sarais in the territories to which the said Act may from time to time apply. So much of s. 13 or of any other Reg. in force as authorizes the payment of a reward of ten rupees to Police officers, by whom a robber or thief may be apprehended, was repealed by s. 14, Reg. XVI of 1810. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XV (3 SECTIONS).—*A Regulation for modifying the constitution of the Courts of Sádr Díwání Adálat and Nizámat Adálat so far as relates to the appointment of the Judges of those Courts.* (Passed 23rd July.)	S. 3 was repealed by cl. 1, s. 2, Reg XII of 1811. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868 save as provided in s. 1, *idem, q. v.*
1808.	
I (6 SECTIONS).—*A Regulation for commuting the tax at present levied on the Târ, Kájur and Narial Trees, in the Provinces of Bahár and Benares, to a tax on the Sale of the Tárí, or juice extracted from those trees, whether in a fermented or unfermented state.* (Passed 18th March.)	This whole Reg. was repealed by s. 2, Reg. X of 1813.
II (8 SECTIONS).—*A Regulation for the better security of the property of minors subject to the jurisdiction of the European Courts at Chandernagore.* (Passed 16th April.)	So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (5 SECTIONS).—*A Regulation for restricting and regulating the retail of Tárí in the Ceded and Conquered Provinces and Bundlekund.* (Passed 13th May.)	This whole Reg. was repealed by s. 2, Reg. X of 1813.
IV (12 SECTIONS).—*A Regulation for the Appointment and Administration of the Office of Kanúngo in the Ceded and Conquered Provinces and in the Province of Benares.* (Passed 17th June.)	The whole Reg. so far as relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1808.	
V (4 SECTIONS).—*A Regulation to declare the intent and meaning of certain clauses in the existing Regulation respecting the settlement of the Land Revenue in the Ceded Provinces.* (Passed 8th July.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
VI (9 SECTIONS).—*A Regulation for the settlement of the Revenues of the Zillah of Cuttack.* (Passed 2nd September.)	S. 9 was repealed by s. 4, Reg. IV of 1810, and by s. 1, Act X of 1840. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VII (3 SECTIONS).—*A Regulation for completing the Registers of Lands held free of Assessment in the Ceded and Conquered Provinces in the Doab, and on the left bank of the river Jumna, and in the territory ceded by his Highness the Peishwah to the British Government in Bundlekund.* (Passed 16th September.)	The unrepealed portions were repealed by Act XXIX of 1871 save as therein provided.
VIII (10 SECTIONS).—*A Regulation for the more exemplary punishment of robbery by open violence; and for modifying the rules in force respecting trials referred to the Court of Nizámat Adálat.* (Passed 19th September.)	So much of this Reg. as authorizes sentences of transportation was repealed by cl. 1, s. 2, Reg. XIV of 1811. S. 6 was modified by cl. 1, s. 4, Reg. IX of 1831. S. 7 was modified by s. 6, Reg. VI of 1832. S. 8 was repealed by s. 16, Reg. XVII of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IX (17 SECTIONS).—*A Regulation for the apprehension of persons concerned in the offences of Gang robbery and especially the Sirdars or leaders of Gangs of Dakaits.* (Passed 4th November.)	Ss. 2 and 3 were repealed by Act XVI of 1843. Ss. 3, 6, 7, 8, and 10 were modified by cl. 1, s. 2, Reg. V of 1822. The whole Reg. was repealed by Act IV of 1844.
X (10 SECTIONS).—*A Regulation for the appointment of a Superintendent of Police, and for defining his jurisdiction and authority.* (Passed 28th November.)	Such parts of this Reg. as make the Superintendent of Police Magistrate of the 24-Parganas were repealed by cl. 1, s. 3, Reg. XIV of 1811. This whole Reg. and other Regulations subsequently enacted in regard to the office of Superintendent of Police were repealed by s. 7, Reg. I of 1829. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
XI (4 SECTIONS).—*A Regulation for the adjustment of the rent payable by the heirs of Invalid Jagírdárs.* (Passed 28th November.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XII (16 SECTIONS).—*A Regulation to provide for the administration of Civil and Criminal Justice at Serampore.* (Passed 23rd December.)	This whole Regulation and such other provisions of the existing Regulations as relate to the administration of Civil and Criminal justice in Serampore were repealed by Reg. III of 1816.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1808.	
XIII (13 Sections).—*A Regulation for rendering Civil Causes, which are appealable to the Court of Sádr Díwání Adálat, cognizable in the first instance by the Provincial Courts; and for authorizing the execution of decrees appealed from in certain cases.* (Passed 30th December.)	Cl. 3, s. 6, was repealed by s. 2, Reg. XXVII of 1814. S. 11 was modified by s. 11, Reg. XXVI of 1814. The whole Reg. was repealed by Act X of 1861 so far as applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
1809.	
I (5 Sections).—*A Regulation for rendering permanent the Board of Commissioners in the Upper Provinces and for investing that Board with certain powers in the Province of Benares.* (Passed 3rd February.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (3 Sections).—*A Regulation for enabling the Commander-in-chief to delegate the power of appointing general Courts-martial on native officers and soldiers of detachments from the Bengal Army serving beyond sea, and for determining the number of officers necessary for the formation of such Courts-martial.* (Passed 24th February.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (5 Sections).—*A Regulation for the support of the Police in Cantonments and Military Bazârs; for defining the powers of the Civil and Military Officers in the performance of that duty: and for fixing the local limits of the said Cantonments and Bazârs.* (Passed 13th March.)	Ss. 2 and 3 were repealed by s. 2, Act XXII of 1864. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IV (23 Sections).—*A Regulation for rescinding Regulations IV and V, 1806; and for substituting rules in lieu of those enacted in the said Regulations for levying duties from the pilgrims resorting to Jagarnath and for the superintendence and management of the affairs of the temple.* (Passed 28th April.)	S. 7 was modified by cl. 1, s. 5, Reg. XI of 1810. S. 18 was modified by cl. 1, s. 4, Reg. XI of 1810. The whole Reg. was repealed by s. 1, Act X of 1840.
V (4 Sections).—*A Regulation to provide in certain cases for the trial of native subjects of the British Government, who may be charged with crimes or misdemeanours committed in places out of the limits of the British Provinces.* (Passed 6th June.)	This Reg. was explained and extended by Reg. VIII of 1813; was amended by s. 2, Reg. I of 1822, by s. 2, Reg. IX of 1822 and by s. 2, Reg. VIII of 1829; and was repealed, except so far as it repeals any former Reg. by s. 1, Act I of 1849.
VI (5 Sections).—*A Regulation for providing more effectually against the illicit cultivation of the Poppy in the Provinces of Bengal, Bahár, Orissa and Benares and for extending to certain native officers employed by the Opium Agents the provisions contained in Section 10, Regulation XXXI, 1793, and Section 4, Regulation IX, 1801.* (Passed 4th August.)	This whole Reg. was repealed by s. 2, Reg. XIII of 1816.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1809.	
VII (7 SECTIONS).—*A Regulation for modifying certain parts of the existing Regulations respecting the duties leviable by means of stamped paper.* (Passed 4th August.)	The whole Reg. was repealed by s. 2, Reg. I of 1814.
VIII (14 SECTIONS).—*A Regulation for modifying parts of the rules in force respecting the appointment and removal of the Native Officers of Government in the Judicial, Revenue and Commercial Departments.* (Passed 29th August.)	Such parts of the rules contained in this Reg. as relate to the appointment and removal of Kotwals, Darogahs and other Police or Jail Officers, were repealed by s. 6, Reg. XVII of 1816. Such parts as relate to the appointment of Law-Officers were modified by s. 2, Reg. XI of 1826. Ss. 3 and 4 were modified by s. 5, Reg. XVIII of 1817, and repealed, save in so far as they repeal any other Reg. &c. by Act XI of 1864. S. 8 was repealed by s. 2, Reg. XXIII of 1814. The whole Reg. so far as it relates to the Land Revenue Department and to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
IX (9 SECTIONS).—*A Regulation for empowering the Calcutta Provincial Court to receive appeals from the decisions of the Commissioner at Chinsurah and Superintendent of Chandernagore in certain cases, and to make further provision for the administration of Civil Justice at those Settlements.* (Passed 3rd October.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
X (6 SECTIONS).—*A Regulation for the establishment of a Copper Coinage in the Province of Benares.* (Passed 15th December.)	So much of s. 2, as requires the copper coin for Benares to be struck at the Calcutta Mint, was repealed by cl. 1, s. 2, Reg. VII of 1814. S. 6 was repealed by s. 3, Reg. XII of 1810. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
1810.	
I (4 SECTIONS).—*A Regulation for occasionally dispensing with the attendance and Fatwa of the Law Officers of the Courts of Circuit.* (Passed 12th January.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
II (9 SECTIONS).—*A Regulation for the suppression of robberies and other crimes and offences by Armed Horsemen, commonly known by the appellation of Kozâks.* (Passed 23rd January.)	This whole Reg. was repealed by s. 3, Reg. XV of 1812.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1810.	
III (4 SECTIONS).—*A Regulation for dispensing with the oaths of Paupers on their subscribing a solemn declaration in certain cases.* (Passed 23rd January)	The whole Reg. was repealed by s. 2, Reg. XXVIII of 1814.
IV (4 SECTIONS).—*A Regulation for abolishing the office of Commissioner in Cuttack.* (Passed 2nd February.)	S. 4 was repealed by s. 1, Act X of 1840. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (11 SECTIONS).—*A Regulation for amending the existing rules for the division of Estates paying revenue to Government.* (Passed 2nd February.)	The whole Reg. was repealed by s. 2, Reg. XIX of 1814.
VI (6 SECTIONS).—*A Regulation for defining the penalties to which zemindárs and others shall be subject for neglecting to give due information of Robberies and for harbouring Robbers.* (Passed 9th February.)	Ss. 3, 4 and 5, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* So much as had not been previously repealed was repealed by s. 2, Act X of 1872 (see Schedule I.)
VII (6 SECTIONS).—*A Regulation for collecting a toll on boats passing along the canal leading from the Baitakhana Road to the Saltwater Lake.* (Passed 23rd February.)	The whole Reg. was repealed by s. 1, Act XXII of 1836.
VIII (6 SECTIONS).—*A Regulation for the appointment of Superintendents of Police in the Divisions of Patna, Benares and Bareilly.* (Passed 16th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IX (97 SECTIONS).—*A Regulation for rescinding the whole of the Regulations at present in force for the collection of the Government Customs in the Provinces of Bengal, Bahár, Orissa and Benares, and in the Ceded and Conquered Provinces, and for re-establishing those customs with amended rules for the collection of them.* (Passed 10th April.)	Such parts of this Reg. as relate to the rate and levy of duty, drawback &c. were repealed by cl. 1, s. 2, Reg. XV of 1825 and by s. 1, Act XIV of 1836. So much of this Reg. or of any other Reg. or Act as affects the collection of Customs duties or the manufacture of salt in the N. W. P., was repealed by s. 1, Act XIV of 1843. The provisions of this Reg. relative to the duty on piece-goods were modified by cl. 1, s. 3, Reg. V of 1823, and those relative to the control of the Customs by s. 2, Reg. I of 1833. So much of this Reg. as vests the Board of Revenue with the Superintendence of Government Customs and Town Duties was repealed by cl. 1, s. 2, Reg. IV of 1819. This Reg. was also modified by s. 2, Reg. IX of 1826. S. 6 was modified by s. 2, Reg. II of 1822. S. 12 was modified by cl. 1, s. 7, Reg. XXI of 1817. Cl. 1, s. 12, was partly superseded by s. 5, Reg. I of 1812 (see also ss. 6 & 8, *idem.*) and was modified by cl. 1, s. 2, Reg. XIX of 1812 and by s. 12, Reg. IV of 1815.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1810.	
IX.—(*Continued.*)	So much of cl. 1, s. 12, as levies a duty of ten per cent. on the importation of tobacco into Cuttack was repealed by cl. 1, s. 2, Reg. V of 1820. Rules were enacted in lieu of cl. 2, s. 12 and ss. 13 and 75 by s. 5, Reg. III of 1811. Cl. 2, s. 12, was modified by s. 25, Reg. I of 1812. Cl. 2, s. 13, was modified by s. 10, Reg. I of 1812. S. 14 was modified by s. 17, Reg. I of 1812. S. 17 was repealed by cl. 1, s 2, Reg. V of 1823. S 18 was modified by Reg. XVII of 1810. Cl. 1, s. 23, was explained by s. 18, Reg. I of 1812. S 32 was repealed by s 2, Reg. XIII of 1816. Cls. 2 and 3, s. 48, were repealed by s. 2, Reg. XV of 1829. Cls. 12, 13, 14, and 15, s. 48, were repealed by s. 9, Reg. III of 1811. S. 51 was modified by s. 16, Act XVI of 1837. S. 57 was repealed by s. 4, Reg. XXI of 1817. S. 60 was modified by s. 19, Reg. I of 1812. S. 75 was modified by ss. 20 and 21, Reg. I of 1812. The operation of cl. 2, s. 97, was suspended by s. 4, Reg. VI of 1814. The whole Reg. save in so far as it repeals any other Reg. or relates to duties leviable on salt or opium was repealed by s. 2, Act VI of 1803.
X (39 Sections).—*A Regulation for abolishing the duties at present collected under the denomination of Town Duties, and for establishing, in place thereof, a Town Duty to be levied on certain specified articles of consumption.* (Passed 10th April.)	This Reg. was modified by s. 8, Reg. XVII of 1810, and by s. 2, Reg. IX of 1826. So much as vests the Board of Revenue with the superintendence of the Government Customs and Town Duties was repealed by cl. 1, s. 2, Reg. IV of 1819; and so much as vests the Board of Customs &c. with the control over the Customs was modified by s. 2, Reg. I of 1833. Such parts as prescribe the levy of transit or inland custom duties or of town duties together with the schedules &c. were repealed by s. 1, Act XIV of 1836. Ss. 4 and 26 were modified by cl. 1, s. 2, Reg. II of 1822. Ss. 28, 29, and 30 were repealed by s. 2, Reg. I of 1834. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
XI (4 Sections).—*A Regulation for amending a part of Regulation IV*, 1809, *respecting the temple of Jagarnath.* (Passed 27th April.)	The whole Reg. was repealed by s. 1, Act X of 1840.
XII (3 Sections).—*A Regulation for modifying the rules contained in Section* 2, *Regulation VII*, 1809, *and Section* 6, *Regulation X*, 1809. (Passed 4th May.)	S. 2 was repealed by s. 2, Reg. I of 1814. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1810.	
XIII (11 Sections).—*A Regulation for expediting the trial and decision of causes depending in the Civil Courts and for promoting the amicable adjustment of Civil Suits.* (Passed 4th May).	This Reg was amended by Act II of 1851. Cl. 3 of s. 2 was modified by s. 8, Reg. XXV of 1814. S 6 was modified by s. 16, Reg. XXV of 1814. Ss. 6 and 8 were modified by cl. 1, s. 2, Reg. IX of 1831. Ss. 9 and 10 and such parts of cls 1 and 2, s. 11, as are applicable to Munsifs and Sádr Amins were repealed by s. 2, Reg. XXIII of 1814. The whole Reg. was repealed by Act X of 1861 in so far as applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg &c.
XIV (7 Sections).—*A Regulation for defining the powers of the Court of Nizámat Adálat in cases of pardon and mitigation of punishment: and for declaring the competency of the Courts of Circuit to admit prisoners to bail in certain cases, during a reference of their trials to the Nizámat Adálat.* (Passed 6th July.)	S. 5 was repealed by s. 2, Reg. X of 1824. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XV (16 Sections).—*A Regulation for levying a tax on houses in certain cities and towns in the provinces of Bengal, Bahár, Orissa and Benares.* (Passed 6th October.)	This Reg was modified by Reg. IV of 1811 and repealed by s. 2, Reg. VII of 1812.
XVI (18 Sections).—*A Regulation to amend the existing rules for the appointment of Zillah and City Magistrates: to provide for the appointment of Joint and Assistant Magistrates, and to alter the provisions in force for the payment of a fixed reward on the conviction of public offenders.* (Passed 9th October.)	Ss. 11 and 12 were modified by s. 6, Reg. XVII of 1816. Ss. 16 and 17 were repealed by Act XVI of 1843. So much as had not previously been repealed was repealed by s. 2, Act X of 1872 (see Schedule I).
XVII (8 Sections).—*A Regulation for modifying the duties imposed by Section* 18, *Regulation IX*, 1810, *on alimentary Salt and for providing more effectually against the illicit importation and transportation of that article.* (Passed 9th October.)	S. 2 was repealed by s. 2, Reg. XVI of 1829. Ss 6 and 7 were repealed by cl. 1, s. 2, Reg. XX of 1817. Ss. 1, 3, 4, and 5 were repealed by s. 1, Act XIV of 1843. S. 8 was repealed by s. 1, Act XIV of 1836.
XVIII (11 Sections).—*A Regulation for the collection of the duties on pilgrims at Allahabad.* (Passed 16th October.)	The whole Reg. was repealed by s. 1, Act X of 1840.
XIX (16 Sections).—A Regulation for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindú Temples, Colleges, and other purposes: for the maintenance and	So much of this Reg. as relates to endowments for the support of Mosques, Hindú Temples or other religious purposes, was repealed by s. 1, Act XX of 1863. Such parts of this Reg. as require that the Board of Revenue shall provide, with the sanction of Govern-

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1810.	
XIX.—(*Continued.*)	
repair of bridges, serais, kuttras, and other public buildings, and for the custody and disposal of nuzzúl property or Escheats. (*Passed 14th December.*)	ment, for the due repair and maintenance of bridges, serais, kuttras, were repealed by s. 16, Reg. XVII of 1816. S 9 was modified by Act XXXVIII of 1837. In force throughout the territories subject to the Lieutenant-Governor of Bengal, and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts (see Schedules IV and V of Act XV of 1874).
XX (26 Sections).—A Regulation for subjecting persons attached to the Military Establishments to Martial Law in certain cases: and for the better government of the Retainers and Dependants of the army receiving public pay on fixed establishments, and of persons seeking a livelihood by supplying the troops in Garrison, Cantonment and Station Military Bazârs or attached to Bazârs of Corps. (*Passed 29th December.*)	S. 5, and in s. 3 the words "or the second article of the fifteenth section of the Hon'ble Company's," were repealed by s. 1, Act XVI of 1874, save as therein provided. So much of s. 12 as declares that the persons therein mentioned shall be liable to be tried by a native Court Martial for the offence stated: and also ss. 13, 14, 15, 16, 17, 18, and 21 were repealed by s. 2, Act XXII of 1864 (see Schedule). So much of this Reg as relates to Military Courts of Requests was repealed by s. 1, Act XI of 1841, which repeals all Regs. and parts of Regs. concerning such Courts. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts (see Schedules IV and V of Act XV of 1874). It had been previously declared to be in force in the Santhal Parganas (see Note to page 1).
1811.	
I (10 Sections).—*A Regulation for making more adequate provision for the punishment of persons found guilty of the offence of breaking into houses, tents, or boats, for subjecting to exemplary punishment persons receiving or purchasing plundered or stolen property, and for granting licenses to Gold or Silver-smiths, Braziers, or Copper-smiths, Iron-smiths, Pawnbrokers, Retail Venders, of brass or copper-wares and Pykars or Itinerant Dealers in second-hand articles.* (Passed 15th February.)	Ss. 2, 3, and 4 were modified by s. 2, Reg. XI of 1814. Ss. 7 and 8 were repealed by cl. 1, s. 4, Reg. XII of 1818. S. 9 was repealed by s. 2, Reg X of 1824. So much of s 11 as respects darogahs and other subordinate officers of Police was repealed by cl. 2, s. 2, Reg. XX of 1817 Ss 12 to 25 inclusive were repealed by s. 2, Reg. XXI of 1812 The whole Reg. save in so far as it repeals any prior Reg. &c. and except so much of s. 10 as declares landholders and others accountable for the early communication to the Magistrate of information respecting receivers of stolen goods, was repealed by Act XVII of 1862. So much as had not been previously repealed was repealed by s. 2, Act X of 1872 (see Schedule I).

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1811.	
II (4 SECTIONS).—*A Regulation for amending the existing rules for the support of invalid Native Commissioned and non-Commissioned Officers.* (Passed 5th April.)	The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
III (9 SECTIONS).—*A Regulation for the conduct of the trade of Foreign nations with the Ports and Settlements of the British nation in the East Indies; and for defining the duties to which such trade shall be subject, at such of the said Ports and Settlements as are immediately dependent on the Presidency of Fort William.* (Passed 30th April.)	Such parts of this Reg. as relate to the rate of duty, drawback &c. were repealed by cl. 1, s. 2, Reg. XV of 1825. Such portions of s. 3 as refer to ships belonging to the United States of America, were modified by s. 2, Reg. XX of 1816. The form of bond prescribed by cl. 5, s. 3, was altered by Reg. VI of 1812. Ss. 2 and 3 were repealed by s. 2, Reg. VII of 1818. So much of this Reg as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IV (3 SECTIONS).—*A Regulation for granting exemptions in certain cases from the payment of the tax established on houses by Regulation XV,* 1810. (Passed 28th May.)	The whole Reg. was repealed by s. 2, Reg. VII of 1812.
V (5 SECTIONS).—*A Regulation for establishing a duty on the manufacture and vend of a liquor denominated Patchwai, and for making certain alterations in Regulations VII,* 1797, *VI,* 1800, *and XL,* 1803. (Passed 28th May.)	The whole Reg. was repealed by s. 2, Reg. X of 1813.
VI (2 SECTIONS).—*A Regulation for rescinding such parts of Regulation XXVII,* 1793, *as declare the holders of Lakheraj and Malguzari lands entitled to a compensation on account of the abolition of the sayer.* (Passed 14th June.)	The whole Reg. was repealed by Act VIII of 1868 save as provided in s. 1, *idem, q. v.*
VII (7 SECTIONS).—*A Regulation for limiting and better defining the powers of the Police Darogahs, and of Zemindárs invested with the charge of the Police, with respect to persons charged with or suspected of the commission of public crimes and offences.* (Passed 25th June.)	Ss. 2 and 7 were repealed by cl. 1, s 2, Reg. XX of 1817. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VIII (10 SECTIONS).—*A Regulation for modifying certain parts of Regulations XXXI and XXXVI,* 1803. (Passed 16th July.)	The whole Reg. was repealed by s. 2, Reg. II of 1819.
IX (18 SECTIONS).—*A Regulation for facilitating the division of landed property, and for securing the rights of joint sharers in joint undivided estates.* (Passed 30th July.)	This Reg. was repealed by s. 1, Act XIX of 1863, so far as applies to the North-Western Provinces of Bengal, saving so far as it repeals any prior Reg &c. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1811.	
X (5 SECTIONS).—*A Regulation for preventing the importation of Slaves from foreign countries and the sale of such Slaves in the territories immediately dependent on the Presidency of Fort William.* (Passed 6th August 1811.)	S. 3 save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
XI (4 SECTIONS).—A Regulation for extending the period fixed by the existing Regulations for revising the jama on lands ordered to be divided into two or more estates. (*Passed 10th August.*)	S. 2 was repealed by s. 1, Act XVI of 1874, save as therein provided. The whole Regulation was repealed so far as it applies to the North-Western Provinces of Bengal, save in so far as it repeals any prior Reg. &c. by s. 1, Act XIX of 1863. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal except the Scheduled Districts (see Schedule IV, Act XV of 1874). It had been previously declared to be in force in the Santhal Parganas (see Note to page 1).
XII (2 SECTIONS).—*A Regulation for augmenting the number of Judges of the Courts of Sádr Díwání Adálat, according as may from time to time appear necessary for the despatch of the business of these Courts.* (Passed 27th August.)	This whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
XIII (5 SECTIONS).—*A Regulation for the more convenient and efficient discharge of the duties of the Board of Revenue.* (Passed 18th October.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XIV (3 SECTIONS).—*A Regulation for amending the provisions of the existing Regulations respecting the punishment of Criminals by Transportation, and for modifying the rules in force regarding the offices of Judge and Magistrate of the 24-Parganas.* (Passed 3rd December.)	Cls 1 and 2, s. 2, were repealed by cl. 1, s. 2, Reg. IX of 1813. Cls. 3 and 4, s. 2, were modified by s. 7, Reg. IV of 1823. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
1812.	
I (26 SECTIONS).—*A Regulation for modifying certain parts of Regulation IX, 1810: for imposing a duty on horses imported by sea, with an exception to horses imported from Europe; and for prohibiting the exportation of Woollens from Bengal to China.* (Passed 13th January.)	S. 3 was modified by s. 12, Reg. IV of 1815. S. 3 was repealed by cl. 2, s. 2, Reg V of 1820. Ss. 11 and 12 were repealed by s. 2, Reg. XVII of 1812. Ss. 13, 14, 15, and 16 were repealed by s. 2, Reg. XIV of 1813. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
II (33 SECTIONS).—*A Regulation for levying a duty on the coinage of silver bullion, and on the recoinage of rupees and other coins, with certain exceptions, at the mints established at Calcutta, Furruckabad and*	So much of this Reg. as relates to the table of the produce of gold bullion annexed thereto was repealed by Reg. XIV of 1817. S. 2 was repealed by cl. 1, s. 3, Reg. XIV of 1818.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1812.	
II.—(*Continued.*)	
Benares; for defining the weight and standard of the Benares rupee; for modifying the rates of duty at present levied on the coinage of gold bullion in the mint of Calcutta; and also for establishing certain rules for the conduct of the business of the above mentioned mints respectively. (Passed 21st March.)	Cls. 3 and 4, s. 5, were repealed by cl. 1, s. 5, Reg. XIV of 1818. S. 5 was modified by s. 5, Reg. V of 1819. So much of cl. 4, s. 8 and of s. 31 as prescribes that mint certificates shall be payable within a certain time was repealed by s. 2, Reg. V of 1819. Ss. 15 and 17 and as much of any other Reg. in force as vests the Board of Revenue in the Central Provinces with the superintendence of the Benares mint were repealed by s. 2, Reg. VII of 1826. The whole Reg. except ss. 1 and 3, so much of s. 5 as was then unrepealed, and s. 6, was repealed by Act VIII of 1868, save as provided in s 1, *idem, q. v.* The whole Reg. was repealed by s. 2, Act XXIII of 1870 (see Schedule.)
III (13 SECTIONS).—*A Regulation for amending some of the rules at present in force in regard to the conduct of enquiries into charges of a criminal nature and for establishing additional provisions with a view to the more effectual apprehension of criminals.* (Passed 18th April.)	Cl. 1, s. 2, was modified by Act VII of 1846. Ss. 2 and 3, so much of s. 4 as provides a punishment for the offence mentioned therein, and ss. 6 and 12, save in so far as they repeal any prior Reg. or Act, were repealed by Act XVII of 1862, *q. v.* So much of s. 4 as had not been previously repealed was repealed by s. 2, Act X of 1872 (see Schedule I.) S. 8 was repealed by cl. 1, s. 27, Reg. XX of 1817. So much of s. 9 as prescribes forms for Reports, Calenders &c. was repealed by s. 2, Reg. VII of 1829. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
IV (4 SECTIONS).—*A Regulation to enable the Governor-General in Council to institute or defend, through the medium of the public officers of Government, actions in which Native Princes, whom it would be improper to require to appear as plaintiffs or defendants in the Courts of Judicature, may be parties.* (Passed 24th April.)	The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
V (28 SECTIONS).—A Regulation for amending some of the rules at present in force for the collection of the land revenue. (*Passed 1st May.*)	Such parts of this Reg. as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824, and such parts as authorize Judges to take cognizance of summary suits for rent &c. were repealed by s. 2, Reg. VIII of 1831. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—S. 1; s. 2, down to and including the words "rescinded; and:" S. 3, down to and including the words "rescinded: and:" S. 4, down to and including the words "declared that," and the words and figures "the case to be tried as a summary suit

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1812.	
V.—(*Continued.*)	under Reglation VII, 1799:" S. 26, from and including the words "provided, however" to the end: S. 27, from and including the words "and should those authorities" to the end. S. 2 was explained by s. 2, Reg. XVIII of 1812. Ss. 5 to 23 save in so far as they repeal any other Reg. &c. were repealed by s. 1, Act X of 1859. Ss. 9, 10, 11, and 13 were modified by Act VIII of 1848. Ss. 15 and 16 were modified by s. 12, Reg. VIII of 1831. Ss. 26 and 27 were modified by s. 2, Reg. V of 1827. Cl. 1, s. 28, was repealed by s. 2, Reg. XII of 1824. Cls. 2 and 3, s. 28, were repealed by cl. 1, s. 2, Reg. VII of 1830. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts (see Schedule IV, Act XV of 1874). It had previously been declared to be in force in the Santhal Parganas (see Note to page 1).
VI (2 SECTIONS).—*A Regulation for altering the form of bond inserted in Clause 5, Section 3, Regulation III,* 1811. (Passed 2nd May.)	The whole Reg. was repealed by s. 2, Reg. VII of 1818.
VII (2 SECTIONS).—*A Regulation for rescinding Regulations XV,* 1810, *and IV,* 1811 (Passed 9th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VIII (16 SECTIONS).—*A Regulation for declaring the manufacture of Saltpetre to be a monopoly on the part of Government: for preventing the illicit manufacture of Saltpetre: and for regulating the conduct of the Agents and all persons employed in the provision of that article in the Provinces of Bengal, Bahár, Orissa, and Benares.* (Passed 30th May.)	The whole Reg. was repealed by s. 2, Reg. IV of 1814.
IX (5 SECTIONS).—*A Regulation for modifying some of the rules before enacted regarding the Settlement of the Ceded Provinces.* (Passed 11th July.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
X (5 SECTIONS).—*A Regulation for modifying some of the rules before enacted regarding the Settlement of the Conquered Provinces lying on the right and left banks of the river Jumna, of the territory ceded by His Highness the Peishwa in Bundlekund and of the District of Cuttack.* (Passed 11th July.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1812.	
XI (5 SECTIONS).—A Regulation to empower the Governor-General in Council to order the removal of Emigrants from foreign countries and their descendants from any place in the vicinity of the frontier of the State from which they may have emigrated: and in certain cases to place and detain any such persons in safe custody, and likewise to provide for the trial of Emigrants and their descendants, who may excite disturbances in the countries from which they may have emigrated and of persons aiding them in the prosecution of such attempts. (*Passed* 18*th July*.)	In s. 5, the words "before the Court of Circuit," in each of the places where they occur, and the words "of Circuit" were repealed by s. 1, Act XVI of 1874, save as therein provided. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces except the Scheduled Districts (see Schedules IV and V of Act XV of 1874). It had previously been declared to be in force in the Santhal Parganas (see Note to page 1). It is in force except the first sections and with some modifications in the Hill District of Arakan (see *the Arakan Hill District Laws Regulation*, page 88 of Part I of the *Gazette of India* of the 20th February 1875).
XII (3 SECTIONS).—*A Regulation to require that all Law and Money Papers be written on stamped Paper or that the prescribed stamp be affixed to them within sixty days from the date of their execution, on pain of their not being afterwards received in evidence in any of the Courts of Judicature.* (Passed 25th July.)	The whole Reg. was repealed by s. 2, Reg. I of 1814.
XIII (2 SECTIONS).—*A Regulation for establishing a duty on the issue of licenses for the sale or manufacture of spirituous liquors, intoxicating drugs, tári, and patchwai.* (Passed 25th July.)	The whole Reg. was repealed by s. 2, Reg. X of 1813.
XIV (4 SECTIONS).—*A Regulation for modifying in certain cases the rule contained in s. 2, Regulation V, 1812, regarding the grant of leases by the proprietors of lands in the Ceded and Conquered Provinces to their tenants.* (Passed 31st July.)	Ss. 2 and 3 were modified by Act XVI of 1842, and repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XV (3 SECTIONS).—*A Regulation for extending to the Ceded and Conquered Provinces and to the Province of Benares certain parts of Regulation I*, 1811, *and for rescinding Regulation II*, 1810. (Passed 8th August.)	The whole Reg. except so far as it extends s. 10 of Reg. I of 1811, was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XVI (1 SECTION).—*A Regulation for authorizing the Judge of the Díwání Adálat of the Zillah of the Twenty-four Parganas to execute judgments passed by the Court of Requests for the town of Calcutta.* (Passed 15th August.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1812.	
XVII (5 Sections).—*A Regulation for modifying the rates of duty established by sections* 11 *and* 12, *Reg. I*, 1812. (Passed 29th August.)	The whole Regulation was repealed by s. 2, Reg. XIV of 1813, which also repeals all provisions imposing a duty on the importation of horses.
XVIII (3 Sections).—A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793, and sections 3 and 4, Regulation L, 1795 and enacting other rules in lieu thereof. (*Passed* 19*th September*.)	The first clause of s. 3 was repealed by s. 1, Act XVI of 1874, save as therein provided. The whole Reg. so far as it relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2. *idem.* This Reg. is in force in the Santhal Parganas—see Note to page 1.
XIX (5 Sections).—*A Regulation for making certain alterations in the rules before established for the collection of the Government Customs and Town Duties.* (Passed 17th October.)	So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
XX (10 Sections).—*A Regulation for modifying some of the provisions contained in the existing Regulations respecting the registry of deeds and for establishing a register of engagements for the delivery of Indigo.* (Passed 17th October.)	S. 4 and cls. 2 and 3, s. 6, were modified by s. 1, Act XXX of 1838. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by s. 1, Act XVI of 1864 (see Schedule).
XXI (2 Sections).—*A Regulation for rescinding certain parts of Regulation I*, 1811. (Passed 31st October.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
XXII (4 Sections).—A Regulation for exempting certain territories and jagírs situated on the borders of the zillah of Bundlekund from the operation of the general Regulations and for annexing to that zillah certain lands formerly composing a part of the jagír of the Killadar of Kalenger. (Passed 5th December.)	The two provisoes in s. 4 were repealed by s. 1, Act XVI of 1874, save as therein provided.
1813.	
I (2 Sections).—*A Regulation for modifying the rules established respecting the settlement of Cuttack, the Pargana of Puttaspore and its dependencies.* (Passed 27th February.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
II (4 Sections).—*A Regulation for preventing native officers from making use of public money entrusted to their care.* (Passed 6th March.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
III (3 Sections).—*A Regulation for authorizing a review in Civil Cases appealable.* (Passed 3rd April.)	The whole Reg. was repealed by cl. 1, s. 4, Reg. XXVI of 1814.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1813.	
IV (5 SECTIONS).—*A Regulation for establishing a toll on boats passing through the Isamati, Matábangah, and Chúrní rivers.* (Passed 3rd April.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. VIII of 1824.
V (9 SECTIONS).—*A Regulation for modifying certain parts of Regulations XIX and XXXVII,* 1793, *extended to Cuttack by Section* 36, *Regulation XII,* 1805. (Passed 1st June.)	Ss. 3 to 9 inclusive were extended to Bahár, Benares, Bhaugulpore, and Purnea by s. 2, Reg. XI of 1817: and to the 24-Parganas, Nudden, Jessore, Dacca Jelalpore, and Backergunge by s. 2, Reg. XXIII of 1817. The whole Reg. was repealed by s. 2, Reg. II of 1819.
VI (5 SECTIONS).—*A Regulation for referring to Arbitration suits and contests respecting land and for amending the rules before established regarding forcible dispossession of land.* (Passed 10th July.)	This Reg. was modified by s. 2, Reg. XV of 1824. Cl. 3, s. 5, was modified by s. 2, Reg. V of 1827. S. 5 together with any Reg. that extends it to any places within the Presidency of Bengal was repealed by s. 1, Act IV of 1840. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
VII (4 SECTIONS).—*A Regulation for extending to the Ceded and Conquered Provinces the provisions contained in Regulation III,* 1801, *and in Section* 13, *Regulation VIII,* 1794, *and for rescinding parts of Sections* 11 *and* 15, *Regulation I,* 1803. (Passed 17th July.)	Such parts of this Reg. as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824: and such parts as authorize Judges to take cognizance of summary suits for rent &c. were repealed by s. 2, Reg. VIII of 1831. S. 3, save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem.*
VIII (2 SECTIONS).—*A Regulation for defining more particularly the different classes of people, who shall be liable to be tried by the Courts of Criminal Judicature established in the British possessions for offences committed in foreign territories.* (Passed 24th July.)	This whole Reg. was repealed except in so far as it repeals any former Reg. by s. 1, Act I of 1849.
IX (2 SECTIONS).—*A Regulation for restoring the punishment of transportation* (Passed 24th July.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
X (32 SECTIONS).—*A Regulation for reducing to one Regulation, with alterations and amendments, the Regulations at present in force respecting the manufacture and sale of spirituous liquors, intoxicating drugs, tárí and patchwai.* (Passed 21st August.)	The provisions of this Reg. were extended to opium by ss. 72 and 73, Reg. XIII of 1816. S. 3 was modified by cl. 2, s. 9, Reg. VII of 1824. Cls. 3, 4, and 5, s. 17, were repealed by s. 2, Reg. XIII of 1816, which repeals also all other parts of this Reg. which refer to the illicit manufacture and sale of opium, not specially re-enacted by Reg. XIII of 1816.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1813.	
X.—(*Continued.*)	Such parts of ss. 19 and 27 as restrict the revenue authorities with respect to the period for which licenses may be granted, were repealed by cl. 1, s. 7, Reg. VII of 1824. Cl. 6, s. 22, was modified by s. 7, Act XXV of 1840. S 30 was superseded by cl. 1, s. 16, Reg. VII of 1824 The whole Reg. except in so far as it repeals any former Reg. or Act, was repealed by s. 1, Act XXI of 1856.
XI (6 SECTIONS).—*A Regulation for modifying some of the rules before established respecting the payment of Pensions and for preventing the abuses committed in the receipt of Pensions.* (Passed 28th August).	The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
XII (3 SECTIONS).—*A Regulation for modifying some of the provisions in the Regulations before enacted for the collection of the Government Customs and Town Duties.* (Passed 30th September.)	Such parts of this Reg. as relate to the rate of duty, drawback &c. were repealed by cl. 1, s. 2, Reg. XV of 1825. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIII (16 SECTIONS).—*A Regulation to provide for the appointment and maintenance of Police chaukidârs in the cities of Dacca, Patna and Múrshedabád.* (Passed 2nd October.)	The whole Reg. was repealed by s. 2, Reg. XXII of 1816.
XIV (2 SECTIONS).—*A Regulation for abolishing the duties before established on the importation of horses by sea or through the District of Cuttack.* (Passed 6th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XV (2 SECTIONS).—*A Regulation for the general abolition of the office of Díwán to the Collectors of the Land Revenue in the Provinces immediately dependent on the Presidency of Fort William.* (Passed 13th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVI (2 SECTIONS).—*A Regulation for rescinding Section* 10, *Regulation XIII,* 1806. (Passed 13th November.)	The whole Reg. was repealed by s. 2, Reg. I of 1814.
XVII (16 SECTIONS).—*A Regulation for amending the rules before enacted for the conduct of enquiries into charges and complaints preferred against European Public Officers.* (Passed 24th December.)	The whole Reg. was repealed by s. 1, Act XXVI of 1839.
1814.	
I (22 SECTIONS).—*A Regulation for amending the Regulations before enacted for raising a revenue by means of Stamps.* (Passed 1st January.)	So much of this Reg. as prescribes that the stamps mentioned in s. 5 shall be stamped at the office of the Superintendent and on any particular kind of paper was repealed by cl. 1, s. 9, Reg. XVI of 1824.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
I.—(*Continued.*)	Cl. 2, s. 5, was explained by cl. 1, s. 16, Reg. XXVI of 1814, and the same section was modified by cl. 2, s. 9, Reg. XVI of 1824. S. 9 was explained by Reg. X of 1814. S. 11 was explained by s. 19, Reg XXVI of 1814. Ss. 9, 11, and 12 and so much of s. 18 as refers to mukhtarnamahs were repealed by s. 3, Reg. XVI of 1824. Ss. 13, 14, 15, 16 and 17 were explained by ss. 20, 22, 23, and 24, Reg. XXVI of 1814. S. 10 was in part repealed by s. 10, Reg. XVI of 1824 and cl. 9 of the same section modified by s. 14, *idem* The whole Reg. was repealed by s. 2, Reg. X of 1829
II (4 SECTIONS).—*A Regulation for modifying the rules before established for the trial of suits proposed to be instituted against any of the public officers, who have been declared amenable for acts connected with the discharge of their official duties to the jurisdiction of the Courts of Civil Judicature.* (Passed 29th January.)	S. 3 was modified by s. 4, Reg. IX of 1829. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
III (2 SECTIONS).—*A Regulation for extending the provisions of Regulation XIII,* 1813, *to the stations at which the Magistrates reside in the Divisions of Dacca, Múrshedabád, Calcutta and Patna.* (Passed 5th February.)	The whole Reg. was repealed by s. 2, Reg. XXII of 1816.
IV (3 SECTIONS).—*A Regulation for repealing Regulation VIII,* 1812. (Passed 11th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (3 SECTIONS).—*A Regulation for amending such parts of the Regulations before enacted as relate to the appointment of the Judges of the Provincial Courts of Appeal and Circuit.* (Passed 19th March.)	So much of cl 2, s. 2, as limits the number of Judges of Provincial Courts to four was repealed by cl. 1, s. 2, Reg I of 1826. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VI (6 SECTIONS).—*A Regulation for modifying certain parts of Regulation IX,* 1810, *and Regulation I,* 1812. (Passed 19th March.)	S. 5 was repealed by s. 11, Reg. IV of 1815. The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on salt or opium was repealed by s. 2, Act VI of 1863. So much as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.
VII (3 SECTIONS).—*A Regulation for modifying a part of the provisions contained in Regulation X,* 1809, *respecting the copper coinage of the Province of Benares.* (Passed 29th April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VIII (2 SECTIONS).—*A Regulation for extending the provision contained in clause* 2, *Section* 4, *Regulation III of* 1812 *to cases of Murder, Arson and Theft.* (Passed 13th May.)	So much of s. 2 as provides a punishment for the offence mentioned therein, save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
VIII.—(*Continued.*)	So much of the Reg. as had not been previously repealed was repealed by s. 2, Act X of 1872 (see Schedule I.)
IX (2 SECTIONS).—*A Regulation for explaining the extent and meaning of Regulation XIII*, 1813, *and Regulation III*, 1814. (Passed 17th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
X 2 (SECTIONS).—*A Regulation for explaining so much of Regulation I*, 1814, *as relates to engagements contracted between Government and individuals.* (Passed 20th May.)	So much of this Reg. as allows engagements for the provision of the Company's investment to be written on unstamped paper was repealed by cl. 1, s. 19, Reg. XVI of 1824. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XI (4 SECTIONS).—*A Regulation to make further provision for the punishment of persons convicted of breaking into or attempting to break into, houses, tents, boats or other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal.* (Passed 27th May.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *idem, q. v.*
XII (3 SECTIONS).—*A Regulation for securing to the Invalid Native Officers, Soldiers and others, the reduced pay or pension granted to them for their support on retiring from the service.* (Passed 27th May.)	The whole Reg. was repealed by s. 1, Act VI of 1849.
XIII (3 SECTIONS).—*A Regulation for the abolition of the office of Kotwal in the cities of Dacca, Patna, and Múrshedabád.* (Passed 10th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIV (3 SECTIONS).—*A Regulation for forming the Zillah of the Twenty-four Parganas into two distinct jurisdictions.* (Passed 14th June.)	The whole Reg. was repealed by s. 2, Reg. VIII of 1832.
XV (2 SECTIONS).—*A Regulation to define the punishment to which persons convicted of two or more offences shall in certain cases be subject.* (Passed 21st June.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XVI (2 SECTIONS).—*A Regulation for extending the provisions of Regulation XIII*, 1813, *to the stations at which the Magistrates reside in the Divisions of Benares and Bareilly with exception to the city of Benares.* (Passed 23rd June.)	The whole Reg. was repealed by s. 2, Reg. XXII of 1816.
XVII (2 SECTIONS).—*A Regulation for the recovery of arrears due from persons manufacturing or selling spirituous liquors, tárí, patchwai and intoxicating drugs.* (Passed 29th July.)	The provisions of this Reg. were extended to Opium by s. 73, Reg. XIII of 1816. The whole Reg. except so far as it repeals any other Reg. or Act was repealed by s. 1, Act XXI of 1856.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
XVIII (5 SECTIONS).—*A Regulation for amending the rules before enacted relative to the demand of arrears of public revenue, and to the conduct of sales of land for the recovery of the same.* (Passed 23rd August.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. XI of 1822.
XIX (35 SECTIONS).—A Regulation for reducing to one Regulation, with alterations and additions, certain Regulations respecting the Partition of Estates paying revenue to Government. (*Passed 17th September.*)	S. 15 was repealed by s. 1, Act XI of 1838. This whole Reg. was repealed by s. 1, Act XIX of 1863, so far as applies to the N. W. Provinces of Bengal, always saving so far as it repeals any other Reg. &c. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided: *viz.*, s. 2; and in s. 13, cl. 1, the words "or Board of Commissioners," and "and Board of Commissioners" wherever they occur: in s. 17, cl. 3, the second sentence: in s. 21, the words "as the case may be" and "respectively." This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal except the Scheduled Districts—see Schedule IV, Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—see Note to page 1.
XX (3 SECTIONS).—*A Regulation for rescinding the Regulations in force relative to the College at Fort William.* (Passed 27th September.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXI (4 SECTIONS).—*A Regulation for preventing the Zillah and City Judges and Collectors of the Public Revenue from employing their native creditors on their respective establishments.* (Passed 4th October.)	S. 4 was repealed by cl. 3, s. 2, Reg. VII of 1823. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XXII (4 SECTIONS).—*A Regulation for declaring the manufacture of Salt in the Province of Cuttack a Monopoly on the part of Government, and for providing more effectually against the illicit manufacture, importation, transportation and sale of salt therein.* (Passed 4th November.)	The whole of the rules contained in this Reg. were repealed by s. 2, Reg. X of 1819, save such as were specially re-enacted thereby.
XXIII (78 SECTIONS).—*A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed, regarding the office of Múnsifs or Native Commissioners, and of Sádr Amíns or Head Commissioners, for modifying and extending their respective powers in the trial and decision of civil suits, and for authorizing them to discharge certain additional duties under the direction of the Zillah and City Judges.* (Passed 29th November.)	Such parts of this Reg. as prohibit Sádr Amíns and Múnsifs from requiring security from defendants or from attaching their property or from realizing fines without the sanction of the Zillah Judge were repealed by s. 3, Act VI of 1843. Such portions as authorize Sádr Amíns to receive the institution fee as their remuneration were repealed by cl. 1, s. 2, Reg. XIII of 1824: and so as to Múnsifs, by cl. 1, s. 12, Reg. V of 1831.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
XXIII.—(*Continued.*)	So much of s. 2 as prohibits the return of the whole or part of the institution fee was repealed by cl. 1, s. 3, Reg. XIII of 1824. S. 2 and cl. 2 of s. 49 were explained by s. 4, Reg. III of 1817. Ss. 6 and 7 were modified by s. 3, Reg. V of 1831. Cl. 3, s. 9 and so much of s. 67 as extends this clause to Sádr Amíns were repealed by Act XII of 1847. S. 13 was modified by s. 12, Reg. XIX of 1817: cl. 1, s. 13, was repealed by s. 4, Reg. V of 1831: cl. 2, s. 13, was repealed by s. 6, Act VI of 1843. Cl. 3 of s. 13, ss 14, 17, 18, 20; cl. 4 of s. 25; ss. 28 and 30; cl. 3 of s. 31; ss. 33, 36, 38, 39, 40, 41, 45, 46, except so far as it enacts that any person dissatisfied with a Múnsif's decision shall be at liberty to appeal; ss. 47, 50, so much of 51 as was then in force; ss. 53, 54, 69, 71, 72, 73, 74, 75, 76, 77, and 78 were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c. Cl. 4, s. 15, was modified by s. 11, Reg. VII of 1832: s. 15 was repealed by s. 1, Act I of 1846. S. 16 was repealed by cl. 1, s. 8, Reg. V of 1831. So much of s. 18 as prescribes forms for Calendars, Reports &c. was repealed by s. 2, Reg. VII of 1829. Ss. 19, 21, 22, 24, 27, 29, 35, 37, cls. 1, 2, 3, and 5 of s. 25, and s. 73 so far as it extends to Sádr Amíns, cls. 1, 2, 3 and 5 of s. 25, and s. 35 were repealed by s. 1, Act XXVI of 1852. Cl. 4, s. 25, cl. 3, s 29, and cl. 1, s. 38 were extended in their application by s. 2, Reg. III of 1817. Cl. 2, s. 27, was repealed by s. 3, Act XXIX of 1841. Cls. 1 and 2, s. 31, and cl. 1, s. 32 were repealed by s. 1, Act XVII of 1845. Ss. 33 and 73, so far as they are inconsistent with the provisions of Act XIX of 1853, were repealed by s. 1, Act XIX of 1853. S. 43 was repealed by s. 2, Reg. VII of 1829. Cls. 2 and 3, s 51, and s. 52 were repealed by s. 1, Act XII of 1856. The local rules for Múnsifs in Chittagong contained in ss. 57, 58, and 59 were repealed by cl. 1, s. 6, Reg. V of 1831. S. 61 was repealed by s. 3, Reg. IV of 1827. S. 62 was repealed by cl. 1, s. 14, Reg. V of 1831. So much of s. 68 as directs that no pauper suits be referred to Sádr Amíns was repealed by cl. 1, s. 4, Reg. XIII of 1824: so much of the same section as directs that no suit be so referred, in which a British subject, European foreigner or American is a party was repealed by cl. 2, s. 2, Reg. IV of 1827:

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
XXIII.—(*Continued.*)	and so much as is declaratory of the powers of Sádr Amíns in original suits was repealed by cl. 1, s. 15, Reg. V of 1831. So much of s. 74 as requires process in a cause pending before a Sádr Amín to issue under the official signature of the Judge or Register was repealed by cl. 4, s. 15, Reg. V of 1831. Cl. 5, s. 76, was repealed by s. 5, Reg. XIII of 1824. So much of the Reg. as had not been previously repealed was repealed by s. 1, Act XVI of 1868.—See Schedule, *id.*
XXIV (12 Sections).—*A Regulation for abolishing the office of Assistant Judge of the Zillah and City Courts and for making certain modifications in the constitution and jurisdiction of those Courts.* (Passed 29th November.)	Ss. 4 and 5 were repealed by s. 8, Reg. IV of 1823. So much of cl. 1, s. 7, as prohibits suits in which a British subject, European foreigner or American is a party, from being referred to Sádr Amíns was repealed by cl, 2, s. 2, Reg. IV of 1827. So much of cls. 1 and 2, s. 7, as are declaratory of the powers of Sádr Amíns in original suits was repealed by cl. 1, s. 15, Reg. V of 1831. Cl. 4, s. 7, and cl. 4, s. 9, were modified by cl. 2, s. 16, Reg. V of 1831. The several clauses of ss. 8 and 9 and generally any other provisions of the Regulations, which authorize the Registers of the Zillah and City Courts to receive a portion of the fees, were repealed by s. 13, Reg. II of 1821. S. 11 except so far as relates to the signing and issuing of process to which the Judge's signature is not specially required was repealed by s. 1, Act XIX of 1853. The whole Reg. was repealed by Act X of 1861 so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XXV (18 Sections).—*A Regulation for modifying the constitution and jurisdiction of the Sádr Díwání Adálat and of the Provincial Courts, for expediting the trial of civil causes in those Courts, and for defining more fully the powers of single Judges holding the sittings of those Courts, or of the Nizámat Adálat and Courts of Circuit.* (Passed 29th November.)	Ss. 1 to 10 inclusive were repealed by Act X of 1861, in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c. Ss. 2 and 4 were repealed by s. 8, Reg. IV of 1823. Cl. 1, s. 5, was modified by cl. 1, s. 2, Reg. XIX of 1817. S. 16 was modified by s. 1, Act II of 1843. S. 17 was modified by cl. 1, s. 4, Reg. IX of 1831. The whole Reg. except s. 15 was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
XXVI (26 Sections).—*A Regulation for modifying some of the rules at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular suits, for limiting and altering some of the existing provisions respecting the pleadings and processes and the mode of executing decrees in regular suits and appeals; and for explaining and making certain additions to the provisions of Regulation I,* 1814. (Passed 29th November.)	Cl. 1, s. 2, was amended by cl. 1, s. 2, Reg. IX of 1819. Cl. 7, s. 2, and cl. 11, s. 3, were modified by cl. 1, s. 7, Reg. IX of 1831. Cl. 7, s. 2; cl. 11, s. 3; cl. 4, s. 8, were repealed by s. 1, Act I of 1846. Cl. 4, s. 5, was repealed by s. 1, Act XVIII of 1852. S. 8 was modified by Act IV of 1850. Ss. 10 and 12 were extended in their operation by Act XV of 1850. S. 11 was modified by s. 11, Reg. XIX of 1817. S. 14 was repealed by s. 1, Act XI of 1863, so far as applies to the North-Western Provinces in Bengal. Cl. 7, s. 15, was modified by s. 6, Act XXVI of 1852. Cl. 8, s. 15, was explained by s. 7, Reg. VII of 1825. S. 14 was repealed, so far as relates to the provinces subjected to the Government of Bengal, by s. 1, Act V (B.C.) of 1863. Ss. 17, 18, 19, except so much as relates to security bonds, and s. 26 were repealed by s. 3, Reg. XVI of 1824. S 23 was explained by s. 5, Reg. XIX of 1817. The whole Reg. except s. 14 was repealed by Act X of 1861, in so far as the Reg. applies to the territories to which Act VIII has been or may be extended, always excepting so far as it repeals any other Reg. &c. So much as had not been previously repealed was repealed by s. 1, Act XII of 1873, save as therein provided.
XXVII (40 Sections).—*A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakíl or Native Pleader in the Courts of Civil Judicature.* (Passed 29th November.)	So much of cl. 3, s. 3, as restricts the appointment of Vakíls to persons of the Hindú and Mahomadan religion was repealed by s. 30, Reg. V of 1831; modified by cl. 1, s. 2, Reg. XII of 1833. So much of s. 3 as prescribes forms for Reports, Calendars &c. was repealed by s. 2, Reg, VII of 1829. Cl. 3, s. 3; s. 7; cl. 1, s, 15; ss 23, 24, 28, 29, 32, 33, 34, 35; cl. 1, s. 39, were repealed by s. 1, Act I of 1846. Ss. 6, 7, 8, 10, 11, 13, 14, 15; cl 3, s. 9, and cl. 6, s. 20 were repealed by s. 1, Act XVIII of 1852. S. 16 was repealed by s. 1, Act XX of 1853. So much of s. 20 as prescribes Pleaders' fees for legal opinions was repealed by s. 9, Act I of 1846. Ss. 24, 34 and 35 were modified by cl. 1, s. 7, Reg. IX of 1831. Cl. 3, s. 25, was explained by cl. 1, s. 10, Reg. XIX of 1817. S. 25 not to be enforced except for the purposes specified in s. 7, Act I of 1846, *vide* s. 6, Act I of 1846. S. 27 was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1814.	
XXVII.—(*Continued.*)	Ss. 32 and 33 were repealed by cl. 1, s. 9, Reg. XIX of 1817. Cl. 2, s. 37, was modified by cl. 1, s. 7, Reg. VIII of 1816, and by cl. 1, s. 4, Reg. XIII of 1829. So much of this Reg. as had not been previously repealed, but saving so far as it repeals any prior enactment, was repealed by s. 3, Act XX of 1865, in so far as regards its application to Lower Bengal and the North-Western Provinces and to any other provinces to which Act XX may be extended under the provisions of s. 47, *idem.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874 save as therein provided.
XXVIII (19 Sections).—*A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as Paupers.* (Passed 29th November)	This Reg. was amended by s. 5, Reg. II of 1825. So much of s. 6 as directs that no pauper suits be referred to Sádr Amíns for trial, was repealed by cl. 1, s. 4, Reg. XIII of 1824. Cl. 2, s. 10, was repealed by s. 1, Act I of 1846. The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any former Reg. &c.
XXIX (5 Sections).—A Regulation for the settlement of certain maháls in the District of Birbhúm usually denominated the Ghatwáli Máhals. (*Passed 3rd December.*)	This Reg. is in force in the Santhal Parganas—See Note to page 1.
1815.	
I (6 Sections).—*A Regulation for securing the right of the British Government to assess land held under mukarrari or istimrari grants of any preceding Government, on the decease of the holders thereof.* (Passed 18th February.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
II (4 Sections).—*A Regulation for extending the provisions of Clause 7, Section 12, Regulation XXIV,* 1814. (Passed 18th April.)	The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
III (6 Sections).—*A Regulation for continuing the existing Settlement of the District of Cuttack, the Pargana of Puttaspore and its dependencies, until the expiration of the year* 1223 *Umli.* (Passed 12th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1815.	
IV (14 SECTIONS).—*A Regulation for modifying some of the provisions at present in force, for the collection of Customs on certain articles of commerce in the territories immediately dependent on the Presidency of Fort William.* (Passed 6th August.)	Such parts of this Reg. as relate to the rates of duty, drawback &c. were repealed by cl. 1, s. 2, Reg. XV of 1825. Cl. 2, s. 8, and s. 10 were modified by cl. 1, s. 7, Reg. XXI of 1817. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (6 SECTIONS).—*A Regulation for suspending the operation of the existing Regulations in that part of the District of Midnapore, commonly known under the denomination of the Pargana of Bogri.* (Passed 29th December.)	The whole Reg. was repealed by Reg. IX of 1817.
1816.	
I (4 SECTIONS).—*A Regulation for the appointment of a Local Commission for the superintendence of the Revenues, in the Provinces of Benares and Bahár.* (Passed 5th January.)	The whole Reg. was repealed by cl. 2, s 2, Reg. III of 1822.
II (12 SECTIONS).—*A Regulation for re-establishing the office of Kanungo in that portion of the Province of Bahár, which forms the Districts of Shahabad, Tirhút, Sarun, and Bahár.* (Passed 5th January.)	This Reg. was extended to the Zillahs of Ramghur, Bhaugulpore and Purnea, which are comprised in Bahár, by Reg. II of 1817. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (2 SECTIONS).—*A Regulation for rescinding Regulation XII*, 1808. (Passed 12th January.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IV (4 SECTIONS).—*A Regulation for allowing prisoners confined under process of the Civil Courts to deliver petitions upon unstamped paper in certain cases and to make further provision for the treatment of prisoners in the Civil Jails.* (Passed 9th February.)	S. 3 was modified by s. 2, Reg. III of 1826. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (12 SECTIONS).—A Regulation for establishing the office of Kanungo in the District of Cuttack, the Pargana of Puttaspore, and the several Parganas dependent on it. (*Passed 16th February.*)	In s. 1, from and including the words "to be in force" to the end of the section:—and in s. 3, the words and figures "under the provisions of Regulation V, 1804, and Regulation VIII of 1809," were repealed by s. 1, Act XVI of 1874, save as therein provided.
VI (6 SECTIONS).—*A Regulation for extending for a further period of three years the existing Settlement of Cuttack, Pargana of Puttaspore, and its dependencies in all cases in which the Settlement may have been concluded with Zemindárs or actual proprietors of the land.* (Passed 8th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1816.	
VII (4 Sections).—*A Regulation for defining the tenure on which certain lands at present included within the limits of the territories of the British Government, and subject to its general laws and regulations, are to be held as an independent Jagir by His Highness Amrat Rao.* (Passed 22nd March.)	The whole Reg. was repealed by s. 1, Act XVII of 1853.
VIII (8 Sections).—*A Regulation for establishing the Office of Superintendent and Remembrancer of Legal Affairs.* (Passed 29th March.)	The whole Reg. was repealed by s. 2, Reg. XIII of 1829.
IX (2 Sections).—A Regulation for the appointment of a Commissioner of Revenue within that portion of the districts of the Twenty-four Parganas, Nuddea, Jessore and Backergunj commonly denominated the Sandarbans. (*Passed 26th April.*)	S. 1 from and including the words "to be in force" to the end of the section, was repealed by s. 1, Act XVI of 1874, save as therein provided.
X (8 Sections).—*A Regulation for preventing the exportation by sea of Saltpetre from any of the ports subject to the Presidency of Fort William, on vessels not being the property of British subjects, and for prohibiting the importation of that article from the interior into any of the foreign settlements situated within the limits of the said Presidency.* (Passed 26th April.)	The whole Reg was repealed by cl. 2, s. 2, Reg. XV of 1825.
XI (20 Sections).—A Regulation for receiving, trying and deciding claims to the right of inheritance or succession in certain tributary estates in Zillah Cuttack. (*Passed 10th May.*)	See s 384, Act VIII of 1859. Ss. 4, 6, 10, and 20 and in s. 18, the figures and words "IV" "VI," "and X" were repealed by s. 1, Act XVI of 1874, save as therein provided.
XII (2 Sections).—*A Regulation for the establishment of a custom-house at Cox's Bazar, for the collection of Government customs* (Passed 17th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIII (98 Sections).—*A Regulation for reducing into one Regulation, with alterations and amendments, the rules at present in force respecting the manufacture and sale of Opium.* (Passed 17th May.)	This Reg. was modified as to rewards by cl. 1, s. 21, Reg. VII of 1824. Ss. 1 to 40, save in so far as they repeal the whole or part of any former Reg., were repealed by s. 1, Act XIII of 1857 S 41, and the following sections, except in so far as they repeal any other Reg. or Act, were repealed by s 1, Act XXI of 1856. S. 39 was explained by cl. 1, s. 2, Reg. XI of 1818. S. 41 was modified by cl 1, s. 17, Reg. VII of 1824 S 45 was explained by cl. 2, s. 2, Reg. XI of 1818 Ss. 50 and 51 were modified by cl. 1, s. 4, Reg. XI of 1818. S 76 was modified by cl. 1, s 3, Reg XI of 1818

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1816.	
XIV (15 SECTIONS).—*A Regulation to provide more effectually for the management of the public Jails; and to enable the Magistrates to maintain good order and discipline in those jails: as well as among the prisoners employed on the public roads or other public works:—also to place the jail at Alipore, in the vicinity of Calcutta, under the inspection and control of the Court of Nizamat Adálat; and to provide for the transportation of convicts to the island of Mauritius or its immediate dependencies.* (Passed 17th May.)	Ss. 1, 2, 3, 4, 5, 6, 7, 8, 10, and 14, so far as they relate to the Bengal division of the Presidency of Fort William, and save in so far as they repeal or modify any other Reg. &c., were repealed by s. 1, Act II (B.C.) of 1864. Ss. 2, 3, 11, 12, 13, and 14 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* Ss. 9 and 15 save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* So much as had not previously been repealed was repealed by s. 2, Act XXVI of 1870.
XV (11 SECTIONS).—*A Regulation for expediting the trial of Civil Suits in which the native officers and soldiers attached to regular corps on the military establishment of the Presidency of Fort William may be parties, and for giving to them certain facilities in the maintenance of their rights, claims and interests.* (Passed 10th June.)	This Reg. was declared to be in full force by s. 1, Act XV of 1845. The whole Reg. was repealed by Act X of 1861, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XVI (8 SECTIONS).—*A Regulation for extending for a further period of five years the existing settlement in the provinces ceded by the Nawáb Vizier to the British Government in all cases in which the settlement may have been concluded with the actual proprietors of the land.* (Passed 5th July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XVII (20 SECTIONS).—*A Regulation for the occasional revision of the regular Police and Jail establishments: for the due support and regulation of the establishments of chaukidars: for amending the rules in force for the appointment and removal of Police officers: for modifying the constitution of the offices of the Superintendents of Police: and for reducing the miscellaneous business of the Courts of Circuit and Court of Nizámat Adálat.* (Passed 26th July.)	Such portions of this Reg. as relate to the office of the Superintendents of Police were partly repealed and partly modified by s. 7, Reg. I of 1829. S. 7 was modified by s. 8, Reg. XI of 1831. So much of cls. 2, 3, 4, 5, 6 and 7 of s. 7 as relates to the appointment of Jailors and persons employed in Jails, cls. 4 and 5 of s. 17, and ss. 18 and 20, were repealed by s. 1, Act II (B.C.) of 1864, so far as relates to the Bengal Division of the Presidency of Fort William, always saving so far as such clauses and sections repeal or modify any other Reg. &c. Cls. 3 and 4 of s 8, save in so far as they repeal any prior Reg. &c., were repealed by Act XVII of 1862, *q. v.* Ss. 14 and 18 were repealed by s. 2, Act XXVI of 1870 (see Schedule). So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XVIII (5 SECTIONS).—*A Regulation for annexing to the Zillah of Allahabad the Pargana of Handya, formerly composing a part of the territories of His Excellency the Nawáb Vizier.* (Passed 16th August.)	Ss. 3 and 4 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1816.	
XIX (20 SECTIONS).—*A Regulation for the better management of Ferries and for levying a toll on the passage of persons and property over rivers and lakes.* (Passed 23rd August.)	So much of cl. 2, s. 14, as prescribes forms for Reports, Calendars &c. was repealed by s. 2, Reg. VII of 1829. The whole Reg. was repealed by cl. 1, s. 2, Reg. VI of 1819.
XX (3 SECTIONS).—*A Regulation for modifying certain parts of Regulation III*, 1811. (Passed 25th October.)	The whole Reg. was repealed by s. 2, Reg. VII of 1818.
XXI (4 SECTIONS).—*A Regulation for modifying Section 43, Regulation XLV*, 1803, *which prescribes a specified weight for the Pice to be coined at the Mint of Furruckabad.* (Passed 8th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXII (24 SECTIONS).—*A Regulation for re-enacting and reducing into one Regulation, with amendments and further provisions, the rules in force for the appointment and maintenance of Chaukidars of Police.* (Passed 27th December.)	This Reg. was amended by Act XV of 1837. S. 4 was modified by cl. 1, s. 2, Reg. VII of 1817. The whole of cl. 2 and as much of cl. 1 of s. 12, as requires petitions of appeal against the chaukidari assessment to be presented on stamped paper were repealed by cl. 1, s. 6, Reg. III of 1821. S. 16 and cls. 2 and 5, s. 24, were repealed by s. 2, Reg. VII of 1829. The whole Reg. was repealed by s. 1, Act XX of 1856.
1817.	
I (2 SECTIONS).—*A Regulation for extending the authority of the Commissioner in Bahár and Benares to the Districts of Ramghur, Bhaugulpore and Purneah.* (Passed 17th January.)	The whole Reg. was repealed by cl. 2, s. 2, Reg. III of 1822.
II (2 SECTIONS).—*A Regulation for re-establishing the office of Kanungo in those portions of the districts of Ramghur, Bhaugulpore, and Purneah, which are comprised in the province of Bahár.* (Passed 17th January.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (4 SECTIONS).—*A Regulation for diminishing the expense to which parties are liable in Original Suits or Appeals, not exceeding sixty-four rupees in value or amount, when tried by the Zillah and City Judges, Registers or Sádr Amins, and for modifying and explaining some of the rules contained in Regulation I*, 1814, *and in Regulation XXIII*, 1814. (Passed 31st January.)	S. 2 was repealed by cl. 3, s. 9, Reg. V of 1831. Such part of s. 4 as restricts plaintiffs or appellants from receiving back the whole or part of the institution fee was repealed by cl. 1, s. 3, Reg. XIII of 1824 and the whole section was repealed by cl. 1, s. 6, Reg. VII of 1832. The whole Reg. was repealed by Act X of 1861 in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1817.	
IV (5 SECTIONS).—*A Regulation for annexing to the Zillah of Saharanpore the tract of country called Deyra Dún, formerly composing a part of the territories of the Rajah of Nepal.* (Passed 18th February.)	S. 2 was repealed by s. 2, Reg. XXI of 1825. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
V (10 SECTIONS).—A Regulation for declaring the rights of Government and of individuals with respect to Hidden Treasure, and for prescribing the rules to be observed on the discovery of such Treasure. (*Passed 28th February.*)	Ss. 3 and 4 were repealed by Act VIII of 1868, savé as provided in s. 1, *idem, q. v.* The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided:—In s. 5, the words "the Board of Commissioners, or the Commissioner in Bahár and Benares, or"—In s. 6, the words and figures "within the period limited by the notification directed in section IV of this Regulation," . . . "and deposited it in the Zillah or City Court, as required by section III"—In s. 7, the words "and deposited"—In s. 8, the words and figure "in conformity with section IV and make the deposit thereby required;" and "or the Board of Commissioners in the Western Provinces or the Commissioner in Behár and Benares"—In s. 9, the words "or City," and the last fourteen words—and section ten. The whole Reg. was declared to be in force in the Panjáb by s. 3, Act IV of 1872—See Schedule I. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—see Note to page 1.
VI (2 SECTIONS).—*A Regulation to explain the purport and intent of the provision contained in Section 2, Regulation XXIV,* 1803. (Passed 11th April.)	The whole Reg. was repealed by s. 2, Act XXIII of 1871, save as therein provided.
VII (2 SECTIONS).—*A Regulation for modifying that part of Section 4, Regulation XXII,* 1816, *which declares that the allowances of Chaukidars of Police shall not exceed three rupees per mensem.* (Passed 18th April.)	The whole Reg. was repealed by s. 1, Act XX of 1856.
VIII (6 SECTIONS).—*A Regulation for modifying certain parts of Regulation XVII,* 1813. (Passed 2nd May.)	The whole Reg. was repealed by s. 1, Act XXVI of 1839.
IX (2 SECTIONS).—*A Regulation for rescinding Regulation V,* 1815. (Passed 22nd July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1817.	
X (14 SECTIONS).—*A Regulation for the trial of persons charged with the commission of certain heinous offences in Kumaon and other tracts of territory ceded to the Honorable the East India Company by the Rajah of Nepal, and subject to the British Government.* (Passed 22nd July.)	Such parts of this Reg. as provide for the appointment of a special Commissioner for the trial of persons charged with heinous offences in the Dehra Dún &c. were repealed by cl. 1, s 3, Reg. V of 1829. The whole Reg. was repealed by s. 1, Act X of 1838
XI (4 SECTIONS).—*A Regulation for modifying certain parts of Regulations XIX and XXXVII, 1793: and Regulations XLI and XLII, 1795.* (Passed 29th July.)	The whole Reg was repealed by cl. 1, s 2, Reg. II of 1819.
XII (36 SECTIONS).—A Regulation for securing the better administration of the office of Patwárí in the Ceded and Conquered Provinces, the Provinces of Bahár and Benares, the district of Cuttack, the Pargana of Puttaspore and its dependencies. (*Passed 12th August.*)	This Reg. was extended to Midnapore and the Hidgelí Mahals by Reg. XIII of 1817, and to the 24-Parganas, Nuddea, Jessore, Dacca Jelalpore, and Backergunge, by s. 3, Reg. I of 1818, and to the other districts of Bengal by cl. 2, s. 3, Reg. I of 1819 The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—In the preamble, the words "from the date of their promulgation:" ss. 2, 4, 5 and 6: in s. 9, the words and figures "to furnish the Collector with the statement required in section IV, and;" and "sections V and VII of:" in s. 11, the words and figures "to furnish the statement required by section IV, or," . . . "sections V and VII of," . . . "in those sections," and "the Board of Commissioners, or the Commissioner in Behár and Benares, as the case may be:" in s. 26, the words "before a Court of Circuit," . . "in the Regulations" and "under the provisions of the Regulations:" in s. 27, the words "before a Court of Circuit" and "in the Regulations:" in s. 31, the words "the Board of Commissioners or the Commissioner in Bahár and Benares, according as he may be subject to one or other of those authorities," . . . "and Commissioner aforesaid:" in s. 32, the words "Board of Commissioners and Commissioner in Behár and Benares, as the case may be:" in s. 33, the words "or Commissioner:" in ss. 33 and 35, the words "the Board of Commissioners or the Commissioner in Bahár or Benares, as the case may be." S. 11 was explained by s. 6, Reg. I of 1819. The whole Reg. so far as it relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss 1 and 2, *idem.* This Reg. is in force in the Santhal Parganas—see Note to page 1.
XIII (3 SECTIONS).—*A Regulation for establishing the office of Kanungo in the District of Midnapore, and in the Mahals subject to the authority of the Collector of Hidgelí, and for extending to the said district and Mahals the operation of Regulation XII, 1817.* (Passed 26th August.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided

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1817.	
XIV (3 SECTIONS).—*A Regulation for amending certain parts of Regulation II*, 1812. (Passed 9th September.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* It was also again repealed by s. 2, Act XXIII of 1870 (see Schedule).
XV (5 SECTIONS).—*A Regulation for imposing a duty on Foreign Salt imported by sea into any port or place within the limits of the territories immediately dependent on the Presidency of Fort William.* (Passed 9th September.)	So much of this Reg. as relates to the rate of duty, drawback &c. was repealed by cl. 1, s. 2, Reg. XV of 1825. The whole Reg. was repealed by s. 1, Act XVI of 1837.
XVI (5 SECTIONS).—*A Regulation for imposing a duty on Foreign Opium imported by sea into any port or place within the limits of the territories immediately dependent on the Presidency of Fort William.* (Passed 9th September.)	So much of this Reg. as relates to the rate of duty, drawback &c. was repealed by cl. 1, s. 2, Reg. XV of 1825. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XVII (18 SECTIONS).—*A Regulation to provide for the more effectual Administration of Criminal Justice in certain cases.* (Passed 16th September.)	S. 3 was modified by s. 6, Reg. VI of 1832. S. 4 was extended to cases of supposed insanity by s. 7, Reg. IV of 1822. Cl. 3, s. 6, and cl. 3, s. 9, were repealed, and s. 9 modified by s. 1, Act III of 1860. Part of s. 8 was modified by s. 2, Reg. III of 1825, and the same section was modified also by s. 2, Reg. XVI of 1825. Cls. 2, 3, and 4, s. 12, were repealed by s. 1, Act II of 1849. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XVIII (7 SECTIONS).—*A Regulation to modify the rules in force, which prescribe an oath of office to be taken by certain Native Officers; and to explain and amend other provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts.* (Passed 16th September.)	Such parts of this Reg. as relate to the appointment of the Law Officers of the Courts of Justice were modified by s. 2, Reg. XI of 1826. Cl. 2, s. 6, was modified by s. 2, Reg. III of 1827. So much of ss. 1, 2, 4, and 6 as relates to Law Officers, save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864. The whole Reg. was repealed so far as relates to Principal Sádr Amíns, Sádr Amíns, and Múnsifs by s. 1, Act XVI of 1868 (see Schedule). The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
XIX (16 SECTIONS).—*A Regulation for modifying and amending some of the Regulations in force relative to the Administration of Civil Justice, and to the authorized summary process for recovery of Arrears of Rent.* (Passed 16th September.)	Such parts of this Reg. as authorize Judges to refer summary suits to Collectors were modified by cl. 1, s. 2, Reg. XIV of 1824: and such parts as authorize Judges to take cognizance of summary suits for rent &c. were repealed by s. 2, Reg. VIII of 1831. S. 9 was repealed by s. 1, Act I of 1846. S. 12 was repealed by s. 4, Reg. V of 1831. Ss. 15 and 16 save in so far as they repeal any other Reg. &c. were repealed by s. 1, Act X of 1859.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1817.	
XIX.—(*Continued.*)	Act X of 1861 repeals so much of this Reg. as had not been already repealed, in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XX (34 Sections).—A Regulation for reducing into one Regulation, with Amendments and Modifications, the several rules which have been passed for the guidance of darogahs and other subordinate officers of Police, for modifying the existing rules concerning the resistance or evasion of criminal process, and for requiring further aid to the Police, in certain cases, from proprietors and farmers of land and their local managers, as well as from the Mandals and other heads of villages. (*Passed 7th October.*)	S. 4 was modified by s. 4, Reg. XI of 1831. The following portions were repealed by s 1, Act XVI of 1874, save as therein provided, *viz*:—Ss. 1 to 8 (both inclusive), ss. 10, 11, 31, 33, and 34: in s. 28, clause *Second*, the words and figures "as directed in section XXIV, Regulation X, 1813:" in s. 29, clause *First*, the words "weaver," "engaged in the provision of the Company's investment, or," "commercial," "commercial resident;" in clause *Second*, the word "commercial;" in clause *Third*, the words "weavers," ... "engaged in the provision of the Company's investment, or," . . . "commercial," . . "commercial resident;" in clause *Fourth*, the words "weaver," "engaged in the provision of the Company's investment, or," . . . "commercial" and "commercial resident;" in clause *Fifth*, the words and figures "as required by the *Second* clause of section XI, Regulation VI, 1801," and the words "commercial resident or;" in clause *Ninth*, the words and figures "as required by the provisions of Regulation XIII, 1816, which are herein recapitulated for their information and guidance;" clauses *Tenth* and *Eleventh*: in s. 30, clauses *Third* and *Sixth*; and in clause *Second*, the words and figures "in pursuance of section IX, Regulation XI, 1806." Cls. 3 and 4 of s. 6: cls. 5, 6, and 7 of s. 8. and ss. 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, and 26, save in so far as they repeal any prior Reg &c. were repealed by Act XVII of 1862, *q. v.* So much of cl. 4, s. 10; cl. 10, s. 16; cl. 16, s. 19, and cl. 2, s 23 as prescribes forms for Reports, Calendars &c. was repealed by s. 2, Reg. VII of 1829. S. 10 was repealed so far as it relates to the districts and provinces subject to the Government of Bengal by s. 1, Act VIII (B. C.) of 1862. Ss 13 and 15 were modified by cl. 1, s. 2, Reg II of 1832. Cl. 17, s. 16, was repealed by Act XXXI of 1852. S. 21 was repealed by s. 2, Act VI (B. C.) of 1870 as to all villages to which the said Act VI (B. C.) of 1870 may be extended. But see s. 1, Act I (B. C.) of 1871 So much of s. 21 and of form No. 6 of the Appendix as relates to the village watchmen of the North-Western Provinces was repealed by s. 2, Act XVI of 1873. Cl. 1, s. 25, was explained by cl. 1, s. 7, Reg. XII of 1818. S. 27, save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far and by what other Regulations or Acts, repealed, amended, or altered.
1817.	
XX.—(*Continued.*)	So much of s. 29 as relates to the execution of criminal process in the Salt Department, saving so far as it repeals any other Reg. &c. ceased to have effect in the Bengal Division of the Presidency of Fort William from the time that Act VII (B. C.) of 1864 came into operation—See s. 2, *idem.* Cls. 5, 6, 7, and 8 of s. 29 were repealed by s. 2, Act VIII of 1875 as to the North-Western Provinces, the Panjab, Oudh and the Central Provinces—See the Extent Clause in s. 1. Cl. 4, s. 30, was repealed by Act XVIII of 1835. Cl. 3, s. 31, was repealed by s. 2, Reg. VII of 1829. Cls. 1 and 2 of s. 33 were repealed by s. 2, Act X of 1872 (see Schedule I.) This Reg. it is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled District—see Schedule IV, Act XV of 1874.
XXI (8 Sections).—*A Regulation for modifying and explaining certain parts of Regulation IV*, 1815. (Passed 28th October.)	So much of this Reg. as relates to the rate of duty, drawback &c. was repealed by cl. 1, s. 2, Reg. XV of 1825. The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on salt or opium was repealed by s. 2, Act VI of 1863. [No portion of it relates to duties leviable on salt or opium.]
XXII (2 Sections).—*A Regulation for vesting the Judge and Magistrate of Cuttack with power to remove and to appoint the Native Ministerial Officers on his establishment, without a previous reference to the Provincial Court of Appeal and Circuit for the Division of Calcutta.* (Passed 28th October.)	The provisions of this Reg. were repealed by s. 7, Reg. V of 1818.
XXIII (15 Sections).—*A Regulation for modifying certain parts of Regulations XIX and XXXVII*, 1793; *and for defining the right of Government to the Revenue of lands not included within the boundaries of estates for which a settlement has been made.* (Passed 28th October.)	The whole Reg. was repealed by cl. 1, s. 2, Reg. II of 1819.
XXIV (5 Sections).—*A Regulation for modifying the constitution of the Commission established in the provinces of Bahár and Benares, and in the districts of Ramghur, Bhaugulpore and Purneah; for extending the authority of the said Commission to the districts of Dinajpore and Rungpore: and for better defining the powers to be exercised in certain cases by a single member of the Board of Revenue or Commission vested with the authority of that Board.* (Passed 9th December.)	Ss. 2 and 3 were repealed by cl. 2, s. 2, Reg. III of 1822. S. 3 was also repealed by s. 2, Reg. I of 1819. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1817.	
XXV (5 Sections).—*A Regulation for fixing the weight of the Pice struck at the Calcutta Mint and for giving general circulation to Pice struck at any of the mints subordinate to this Presidency.* (Passed 9th December.)	S. 5 was repealed by s. 2, Act XIII of 1836. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XXVI (2 Sections).—*A Regulation for authorizing the circulation of Furruckabad Rupees, coined in either of the mints of Calcutta, Furruckabad, or Benares, or at any other mint established by order of the Governor-General in Council.* (Passed 16th December.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
1818.	
I (3 Sections).—*A Regulation for establishing the office of Kanúngo in the districts of the 24-Parganas, Nuddea, Jessore, Dacca Jelalpore, and Backergunj, and for extending to the said districts the operation of Regulation XII,* 1817. (Passed 17th March.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
II (6 Sections).—*A Regulation for annexing to the Zillah of Bundlekund the Elakeh of Khundeh, appertaining to the Pargana of Mahaba, together with certain villages belonging to the Pargana of Chúrki on the right bank of the Jumna, formerly composing a part of the territories of Nana Gobind Rao.* (Passed 31st March.)	Ss. 3 and 4 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.
III (11 Sections).—A Regulation for the confinement of State Prisoners. (*Passed 7th April.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz* :—In s. 4, the words "of circuit" wherever they occur: s. 8: and in s. 9, the words "to the Provincial Court of Appeal and Circuit, and." This Reg. was extended in its operation by Act XXXIV of 1850, and by Act III of 1858. Warrants of commitment under this Reg. how to be directed. S. 13, Act XII of 1865, which was however repealed by Act XII of 1867. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts (see Schedules IV and V of Act XV of 1874). It had previously been declared to be in force in the Santhal Parganas (see Note to page 1). It was declared to be in force in the Panjab by s. 3, Act IV of 1872.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1818.	
III.—(*Continued.*)	It is in force in the Hill District of Arakan, see *The Arakan Hill District Laws Regulation*, p. 88 of Part I of the *Gazette of India* of the 20th February 1875.
IV (2 SECTIONS).—*A Regulation for re-establishing the Díwání Adálat of the Northern division of Saharanpore.* (Passed 14th April.)	The whole Reg. was repealed by s. 9, Act XV of 1874.
V (8 SECTIONS).—*A Regulation for the appointment of a Commissioner to be vested with special powers in the administration of Civil affairs in Zillah Cuttack.* (Passed 20th April.)	So much of cl. 5, s. 5, as provides that the Commissioner's decision shall be final, was repealed by s. 8, Reg. I of 1829. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VI (4 SECTIONS).—*A Regulation for providing against the protracted confinement of persons charged with criminal offences during the examination af such charges before the Magistrates and for defining the powers of the Courts of Circuit at the Sádr Stations of those Courts with respect to persons committed or held to bail by the Magistrates for trial at the periodical sessions af Jail Delivery.* (Passed 12th May.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VII (3 SECTIONS).—*A Regulation for rescinding such parts of the existing Regulations as relate to the conduct of the Trade of foreign nations to the ports and settlements of the British nation in the East Indies: and for better giving effect to a Regulation in that behalf enacted by the Honorable the Court of Directors of the United Company of Merchants of England trading to the East Indies.* (Passed 28th August.)	The whole Reg. except in so far as it repeals previous enactments was repealed by s. 2, Reg. II of 1830.
VIII (14 SECTIONS).—*A Regulation for rescinding part of clause sixth, section 2, Reglation LIII, 1803, for modifying some of the existing rules relating to the requisition of security for good behaviour, and for providing for a revision of the cases of certain classes of prisoners, detained in confinement on failure to furnish security for their good behaviour and appearance.* (Passed 28th August.)	Cl. 1, s. 8, was explained by s. 5, Reg. IV of 1825. The provisions of s. 10 were extended by s. 2, Reg. III of 1819. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IX (5 SECTIONS).—*A Regulation for extending for a further period of five years the existing settlement in the Conquered Provinces lying on the right and left banks of the river Jumna with the exception of the southern division of the district of Saharanpore, and in the territory ceded to the British Government by His Highness the Peishwah in Bundlekund, in all cases in which the Settlement may have been concluded with the actual proprietors of the land.* (Passed 18th September.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1818.	
X (8 SECTIONS).—*A Regulation for ensuring the more punctual and regular collection of the public revenue from proprietors and farmers of land in the District of Cuttack, the Pargana of Puttaspore and the several parganas dependent on it.* (Passed 9th October.)	The whole Reg. was repealed by s. 1, Act XI of 1859.
XI (4 SECTIONS).—*A Regulation for modifying certain parts of Regulation XIII,* 1816. (Passed 6th November.)	This Reg. was modified as to rewards by cl. 1, s. 21, Reg. VII of 1824. The whole Reg. was repealed except in so far as it repeals any other Reg. or Act, by s. 1, Act XXI of 1856.
XII (7 SECTIONS).—*A Regulation for extending the powers of the Magistrates and Joint Magistrates in the trial of persons charged with breaking into houses and other places of habitation or into warehouses or other places used for the custody of property, with an intent to steal: or charged with theft or with buying or receiving stolen property, knowing the same to have been stolen: or charged with escape from Jail or other place of confinement.* (Passed 6th November.)	Cl. 2, s. 2, was modified by s. 3, Reg. VI of 1824. Ss. 2, 3, and 4 were amended by s. 5, Reg. VI of 1824 Cl. 2, s. 3, was amended by s. 4, Reg. IV of 1820, which Reg. also makes further additions and amendments. Cl. 2, s. 4, was amended by s. 4, Reg. VI of 1824. S. 7 was modified by cl. 1, s. 2, Reg. II of 1832. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XIII (6 SECTIONS).—*A Regulation for extending for a further period of three years the existing Settlement of Cuttack, Pargana Puttaspore and its dependencies in all cases in which the Settlement may have been concluded with Zemindárs or actual proprietors of land.* (Passed 20th November.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIV (6 SECTIONS).—*A Regulation for altering the Standard of the Calcutta Sicca Rupee and Gold Mohur and for further modifying some of the Rules in force respecting those Coins.* (Passed 24th December.)	So much of cl. 2, s. 1, as fixes the weight and standard of the nineteenth sun sicca rupee was repealed by s. 2, Reg. VII of 1833. So much of cl. 5, s. 3, as prescribes that mint certificates shall be payable within a certain time was repealed by s. 2, Reg. V of 1819. S. 5 was modified by s. 5, Reg. V of 1819. The whole Reg. was repealed by s. 2, Act XXIII of 1870 (see Schedule).
1819.	
I (7 SECTIONS).—A Regulation for replacing the districts of Dinajpore and Rungpore under the management of the Board of Revenue: for extending the authority of the Board of Commissioners in Bahár and Benares to the district of Goruckpore: for	Ss. 1, 2, and 3 were repealed by s. 1, Act XII of 1873, save as therein provided. This Reg. is in force in the Santhal Parganas (see Note to page 1). The whole Reg. so far as it relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1819.	
I.—(*Continued.*)	
re-establishing Kanúngos, and reforming the office of Pátwarí throughout the Province of Bengal: and for explaining and modifying certain parts of Regulation XII, 1817. (*Passed 5th February.*)	
II (31 SECTIONS).—A Regulation for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made. (*Passed 12th February.*)	This Reg. was modified by s. 1, Reg. XIV of 1825. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—Ss. 2, 25, and 27: In s. 6, the words "in the Persian language and character:" in s. 19, clause *First*, from and including the words "conformably with" to the end of the clause: in ss. 20, 21, and 30, the word "Persian:" S. 24, clause *Second*: s. 26, clause *First*, except the words "In cases instituted in the Zillah Court . . . an appeal shall be received by the Court of Sudder Dewanny Adawlut:" Clause *Second*, down to and including the words "appeals but," and the words "or Provincial Court" and the word "special" wherever it occurs: and in s. 30, clauses *Fifth* and *Seventh*, the words "or City." Ss. 5, 6, 8, 10, 11, 13, 15, 22, and 30 were modified by cl. 1, s. 5, Reg. IX of 1825. Cl. 2 of s. 19 was repealed by s. 1, Act XII of 1873, save as therein provided. Ss. 22, 23, and 24 were modified and extended by cl. 1, s. 10, Reg. III of 1828. S. 26 was modified by s. 6, Reg. XIV of 1825. S. 26 and cl. 12, s. 30, were modified by s. 13, Reg. VII of 1832. S. 30 was repealed in the Provinces subject to the Government of Bengal by s. 1, Act VII (B.C.) of 1862. The whole Reg. so far as it relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem*. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts (see Schedule IV of Act XV of 1874). It had previously been declared to be in force in the Santhal Parganas (see Note to page 1).
III (3 SECTIONS).—*A Regulation for extending the provisions of Section 10, Regulation VIII, 1818, to robbers not being Dakaits or Gang robbers.* (Passed 16th April.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IV (3 SECTIONS).—*A Regulation for the appointment of a Board for the superintendence of the revenue derived from customs, town duties, salt and opium.* (Passed 22nd April.)	This whole Reg. saving any rule or Reg. thereby repealed, was repealed by s. 1, Act XLIV of 1850.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended or altered.
1819.	
V (5 Sections).—*A Regulation for modifying certain parts of the rules in force in regard to the conduct of the business of the Mints subordinate to this Presidency.* (Passed 25th June.)	The whole Reg. was repealed by s. 2, Act XXIII of 1870 (see Schedule).
VI (14 Sections).—A Regulation for rescinding Regulation XIX, 1816, and for enacting other provisions in lieu thereof. (*Passed 25th June.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*:—In s. two, clause *First* and the first six words of clause *Second:* in s. three, clause *Second*, the words and figures "under the provisions of Regulation XIX, 1816:" in s. six, clause *Second*, the words "through the channel of the Superintendents of Police;" and section fourteen. S. 6, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal was repealed by s. 1, Act I (B.C.) of 1866. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-West Provinces, except the Scheduled Districts (see Schedules IV and V of Act XV of 1874).
VII (7 Sections).—*A Regulation for declaring certain misdemeanours punishable by the Magistrates and for defining the punishment to be adjudged in such cases.* (Passed 9th July.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VIII (19 Sections).—A Regulation to declare the validity of certain tenures and to define the relative rights of Zemindárs and Pátní Talukdars, also to establish a process for the sale of such taluks in satisfaction of the zemindar's demand of rent and to explain and modify other parts of the sytem established for the collection of rents generally throughout Bengal. (*Passed 3rd September.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—In s. 2, the words and figures "under the rule of section V, Regulation XLIV, 1793:" in s. 3, clause *Third*, the words and figures "under the rule contained in the seventh clause of section XV, Regulation VII, 1799, for leases conveying a limited interest in the land:" in s. 8, clause *Second*, the words "to the Civil Court of the District, and a similar one:" in s. 9, the words "by the register or acting register of the Civil Court, or, in his absence, by the person in charge of the office of Judge, or of Magistrate of the District within which the lands may be situated:" And in s. 15, clause *Second*, the word "summary, and the words and figures brought under the provisions of section XV, Regulation VII, 1799, or in any application to stay process by distraint, under the rules of Regulation V, 1812." Such parts of this Reg. as relate to the officer by whom sales should be conducted were modified by cl. 1, s. 16, Reg VII of 1832 [*N.B.*—S. 16 was repealed by Act X of 1861.] Cl. 2, s. 8, was amended by Act XXXIII of 1850.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1819.	
VIII.—(*Continued.*)	Ss. 8, 9, 11, 13, 15, and 17 were extended to other sales by Reg. I of 1820. So much of s. 9, as provides that the deposit, if forfeited, shall be regarded as part of the proceeds of the sale, was repealed by s. 1, Act XXV of 1850. S. 9 as modified by cl. 1, s. 16, Reg. VII of 1832 and except so far as it has been altered by Act XXV of 1850, was extended to sales under Act VIII of 1835, by s. 10, Act VI of 1853. S. 16, so far as it relates to the Bengal Division of the Presidency of Fort William, and save in so far as any other Reg. or law is repealed thereby, was repealed by s. 2, Act VIII (B.C.) of 1865, *q. v.* Ss. 18 and 19 were extended to all provinces subject to the Presidency of Bengal by s. 22, Reg. VII of 1822, and repealed, save in so far as they repeal any other Reg. or Act, by s. 1, Act X of 1859. This Reg. is in force in the Santhal Parganas (see Note to page 1).
IX (9 SECTIONS).—*A Regulation for amending the existing rules with regard to the admission of special appeals: for requiring in certain cases, from residents within the limits of Calcutta, security for eventual costs of suit and for extending the powers of the Zillah and City Registers and the Registers of the Provincial Courts in certain cases.* (Passed 29th October.)	Cl. 2, S. 2, was repealed by cl. 1, s. 4, Reg. II of 1825. S. 5 was modified by cl. 4, s. 2, Reg. IX of 1831. S. 7 was repealed by Act XV of 1841. The whole Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. was repealed by Act X of 1861.
X (126 SECTIONS).—*A Regulation for reducing into one Regulation, with Alterations and Amendments, the rules at present in force respecting the manufacture, adulteration, importation, transportation, and sale of Salt.* (Passed 7th December.)	This Reg. was amended by Act III of 1851. The whole Reg. save in so far as it repeals any other Reg. &c. ceased to have effect in the Bengal Division of the Presidency of Fort William, under the provisions of s. 2, Act VII (B.C.) of 1864. Ss. 32 and 33 were modified by s. 27, Act XXIX of 1838. S. 36 was modified by s. 14, Act XXIX of 1838. S. 41 was explained by s. 2, Reg. IV of 1832 So much of s. 48 as affects the importation of salt from the North-Western Provinces into the other Provinces of the Presidency of Bengal together with ss. 49, 50, 85, and 93 were repealed by s. 1, Act XVI of 1848. Ss. 59, 60, and 61 were repealed by s. 1, Act XXIX of 1838. S. 64 was modified by s. 28, Act XXIX of 1838. S. 89 was modified as to the scale of rewards by s. 4, Act IX of 1835. Ss. 109 and 112 were modified by s. 31, Act XXIX of 1838. S. 114 was modified by s. 32, Act XXIX of 1838. S. 121 was modified by ss. 15 and 16, Act XXIX of 1838.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1819.	
X.—(*Continued.*)	S. 122 was modified by s. 23, Act XXIX of 1838. So much as had not been previously repealed was repealed by s. 2, Act VIII of 1875, as to the North-Western Provinces, Oudh, the Panjáb and the Central Provinces (see the Extent clause in s. 1).
XI (12 SECTIONS).—*A Regulation for discontinuing the coinage of the Benares rupee: for declaring the Furruchabad rupee the legal currency of the province of Benares: for altering the standard of the Furruckabad rupee, and for defining the rate at which that rupee is to be received within the Province of Benares.* (Passed 31st December.)	So much of this Reg. as fixes the weight and standard of the Furruckabad rupee was repealed by s. 2, Reg. VII of 1833. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
1820.	
I (2 SECTIONS).—A Regulation for providing that all sales of certain Talúks made answerable by sale for arrears of the Zemindár's rent, shall be conducted in the mode prescribed by Regulation VIII, 1819, for the sales therein described. (*Passed 11th January.*)	Such parts of this Reg. as relate to the officer by whom sales should be conducted were modified by cl. 1, s 16, Reg. VII of 1832. (*N.B.*—S. 16, Reg. VII of 1822, has been repealed.) This Reg. is in force in the Santhal Parganas (see Note to page 1).
II (4 SECTIONS).—*A Regulation to enable the Magistrate of Húghlí, the Court of Circuit for the division of Calcutta, and the Court of Nizámát Adálat to take cognizance of certain offences committed by natives within the limits of the settlements of Chandernagore and Chinsurah.* (Passed 25th February.)	This Reg. was repealed so far as relates to the settlement of Chinsurah by s. 10, Reg. XVIII of 1825. The whole Reg. was repealed by s. 1, Act XVI of 1874, save as therein provided.
III (3 SECTIONS).—*A Regulation for rescinding some of the provisions of Regulation XI, 1806, and for preventing the practice of pressing coolies or Begaris.* (Passed 24th March.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IV (4 SECTIONS).—*A Regulation for declaring the power of the Magistrates to give effect to Military sentences in certain cases; for providing for the more efficient exercise of the Control of the Courts of Circuit over the sentences of the Magistrates in certain cases; and for amending clause second, section 3, Regulation XII, 1818.* (Passed 21st July.)	This whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (4 SECTIONS).—*A Regulation for imposing a general custom duty on Tobacco.* (Passed 25th August.)	So much of this Reg. as relates to the rate of duty, drawback &c. was repealed by cl. 1, s. 2, Reg. XV of 1825. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1820.	
VI (2 SECTIONS).—*A Regulation for rescinding Sections* 46, 47, *and* 48, *Reg. XLV*, 1803. (Passed 25th August.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VII (7 SECTIONS).—*A Regulation for altering the punishment and form of trial in cases of Dharna.* (Passed 8th December.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
1821.	
I (12 SECTIONS).—*A Regulation for the appointment of a Special Commission in the Ceded and Conquered Provinces, for the investigation and decision of certain claims to recover possession of land illegally or wrongfully disposed of by public sale or lost through private transfers effected by undue influence; and for the correction of the errors or omissions of the proceedings adopted by the Revenue officers in regard to the record and recognition of proprietary rights and the ascertainment of the tenures, interests, and privileges of the agricultural community.* (Passed 13th January.)	This Reg. was modified by cl. 2, s. 10, Reg. I of 1829: and as to the time within which claims must be made by s. 1, Act III of 1835. The office of Mofussil Special Commissioner acting under the provisions of this Reg. was abolished by cl. 1, s. 10, Reg. I of 1829. Such part of cl. 1, s. 3, as restricts the cognizance of the Commissioners to sales effected by the undue influence of a public officer was repealed by cl. 1, s. 2, Reg. I of 1823. Cl. 3, s. 5, was modified by cl. 1, s. 3, Reg. XVIII of 1829. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (14 SECTIONS).—*A Regulation for increasing the powers of Munsifs; for extending in special cases the powers of Sádr Amins in the trial and decision of Civil suits; and for authorizing the Zillah and City Registers and Sádr Amins to discharge certain additional duties under the direction of the Zillah and City Judges; for providing an increase in the number of Munsifs, when necessary; and for authorizing Sádr Amins to hold their cutcherries at any place, where there may be a Register holding his Court at a distance from the fixed station of the Judge and Magistrate; also for amending the rules at present in force for the institution of suits connected with the local jurisdiction of such Registers, for rescinding such parts of the existing Regulations as authorize the Registers of Civil Courts to receive a proportion of the institution fees on suits which may be referred to them for decision; for altering in certain cases the rule at present in force for the execution of decrees of the Provincial Courts in original suits, and of the decrees of the Court of Sádr Diwání Adálat on appeals from such decrees, and for abolishing the office of Register of the Provincial Courts of Appeal and Circuit.* (Passed 19th January.)	Such part of this Reg. as authorizes Sádr Amíns to receive the institution fee on suits and appeals as their remuneration was repealed by cl. 1, s. 2, Reg. XIII of 1824, and such part as authorizes Munsifs to receive the institution fee as their remuneration was repealed by cl. 1, s. 12, Reg. V of 1831. S. 2 was modified by s. 3, Reg. V of 1831. Cls. 1 and 2, s. 3, were repealed by s. 4, Reg. V of 1831. Cls. 3 and 4, s. 3, were repealed by cl. 1, s. 8, Reg. V of 1831. S. 4, save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859. So much of cls. 1 and 2, s. 5, as is declaratory of the powers of Sádr Amíns in original suits, was repealed by cl. 1, s. 15, Reg. V of 1831. So much of cl. 2, s. 5, as prohibits suits, in which a British subject, European foreigner or American is a party, from being referred to Sádr Amíns, was repealed by cl. 2, s. 2, Reg. IV of 1827. Act X of 1861 repeals the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1821.	
III (7 SECTIONS).—*A Regulation for extending in special cases the powers of Assistants to the Magistrates; for empowering the Hindu and Mahomadan Law Officers of the Zillah and City Courts, and Sádr Amíns to try and determine petty thefts and other criminal cases of a trivial nature when referred to them by a Magistrate: for limiting the period of appeal in Faujdari cases: for rescinding parts of section* 12 *and section* 17, *Regulation XXII,* 1816 : *for modifying some of the rules in force relative to the rate and collection of the assessment levied for the maintenance of Chaukidars of Police, and for vesting the Magistrates with certain powers in regard to persons travelling through or assembling within their jurisdictions under suspicious circumstances.* (Passed 19th January.)	S. 6 was repealed by s. 1, Act XX of 1856. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IV (8 SECTIONS).—A Regulation for authorizing a Collector of Land Revenue or other officer employed in the management or superintendence of any branch of the territorial revenues to exercise, in certain cases, the powers of a Magistrate or Joint Magistrate, and for authorizing a Magistrate or Joint Magistrate or Assistant to a Magistrate to exercise, in certain cases, the powers of a Collector of Land Revenue or of any other officer employed in the management or superintendence of any branch of the territorial revenues; also for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of Land Revenue. (*Passed* 19*th January.*)	Ss. 2 and 3 and cl. 4 of s. 8, were repealed by s. 1, Act XII of 1873, save as therein provided. Cl. 3 of s. 8, was modified by s. 21, Reg. VIII of 1831. [Reg. VIII of 1831 has been repealed.] The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.* :—In s. 6, clause *First*, the words "and city," and the whole of clause *Second*: in section *Seven*, the words "or city," wherever they occur: and in s. 8, clause *Third*, the words "or the Boards of Commissioners," . . . "or Board of Commissioners." The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* It is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts (see Schedule IV of Act XV of 1874.)
V (4 SECTIONS).—*A Regulation for settling the rates at which Benares and Furruckabad rupees shall be received in payment of the revenue of malguzars, whose engagements are expressed in Gohur-Shahi or Tirsúlí rupees.* (Passed 23rd November.)	The whole Reg. was repealed by Act VIII of 1868 save as provided in s. 1, *idem, q v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1822.	
I (6 SECTIONS).—*A Regulation for amending Regulation XLIX*, 1793, *Regulation XXXII*, 1803, *and Regulation V*, 1809. (Passed 18th January.)	This Reg. was amended by Reg. VIII of 1828. S. 6 was amended by s. 2, Reg. IX of 1822, and by s. 2, Reg. VIII of 1829, and repealed by s. 1, Act I of 1849. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
II (2 SECTIONS).—*A Regulation for modifying certain provisions in the existing Regulations relative to the officers employed in the collection of the Government Customs and Town Duties.* (Passed 19th March.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
III (5 SECTIONS).—A Regulation for modifying the constitution, and altering the jurisdiction of the several Boards vested with the superintendence of the Land Revenue in the territories belonging to the Presidency of Fort William. (*Passed 19th March.*)	This Reg. was modified in part by s. 2, Reg. IX of 1826. Ss. 2 and 3, and clauses *second* and *third* of s. 4, were repealed by s. 1, Act XVI of 1874, save as therein provided. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* It is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts (see Schedule IV of Act XV of 1874.)
IV (7 SECTIONS).—*A Regulation to provide for the more effectual Administration of Criminal Justice in certain cases.* (Passed 29th March.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (4 SECTIONS).—*A Regulation for amending certain provisions of Regulation IX*, 1808. (Passed 13th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VI (4 SECTIONS).—*A Regulation to establish a Court of Wards for Benares, and to define and explain certain of the Rules regarding the powers and jurisdiction of the several Courts of Wards.* (Passed 1st August.)	The whole Reg. so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal, was repealed by s. 86, Act IV (B.C.) of 1870, *q. v.* So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem*
VII (35 SECTIONS).—A Regulation for declaring the principles according to which the Settlement of the Land Revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revis-	So much of this Reg. as prescribes that the amount of jama to be demanded from any mahál shall be calculated on the value of the actual produce or on a comparison between the cost of production and value of produce, was repealed by s. 2, Reg. IX of 1833: and so much as prescribes or has been understood to prescribe that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of, and determination on, the

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed amended, or altered.
1822.	
VII.—(*Continued.*)	
ing or superintending Settlements: for continuing with certain exceptions the existing leases within the said provinces for a further term of five years: for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land or in the rent or produce thereof: and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land. (*Passed 8th August.*)	amount of the Government demand, was repealed by s. 3, *idem.* Cl. 6, s. 2, and ss. 3 to 33 inclusive, were extended to all lands, not included within the limits of permanently settled estates, by cl. 1, s. 2, Reg. IX of 1825. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz:*—In s. 2, the first five clauses, and the first fourteen words of clause *Sixth:* in s. 5, clause *Second*, section six, clause *First*, section seven, clause *First*, section nine, clause *Second*, section twelve, clause *Second*, and section seventeen, the words "of Commissioners:" in s. 15, the words "or Provincial," and "according to the value of the interest at stake:" in s. 16, the words "or Provincial:" in s. 20, clause *Second*, the words "or City:" in s. 23, clause *Third*, the words "or City:" in s. 29, clause *Fifth*, the word "Persian:" in s. 30, the words "or City," and "or Provincial Court of the Division," and "under the general Regulations for the administration of civil justice:" in s. 31, clause *Second*, the words "any register, sudder ameen or" and "registers, sudder ameens and:" and in s. 33, clause *First*, the words and figures "shall be guided by the rules contained in Regulation XVI, 1793, and the other corresponding enactments, and in Regulation VI, 1813, in so far as the same may be applicable, and." S. 22 and so much of s. 20 and following sections as applies to suits for rent, to complaints of excessive demand, or undue exaction of rent, or of the non-delivery of pattas or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of diputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land, save in so far as they repeal any other Reg. &c. were repealed by s. 1, Act X of 1859. Cl. 3, s. 23, as to the conduct of sales was modified by s. 1, Act VIII of 1835. S. 25, save in so far as it repeals any prior enactment, was repealed by s 3, Act XX of 1865, so far as concerns its application to Lower Bengal and the North-Western Provinces and to those territories to which Act XX may be extended under s. 47, *idem.* S. 29 was amended as to the period for presenting appeals by Act III (B.C.) of 1868. So much of cl. 2, s. 31, as provides that the suits therein mentioned shall not be cognizable by Sádr Amíns or Munsífs was repealed by s. 2, Act XXV of 1837.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1822.	
VII.—(*Continued.*)	The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
VIII (6 SECTIONS).—*A Regulation to declare that persons charged with crimes and misdemeanours must ordinarily be brought to trial at the Faujdari Court or Sessions of the District, in which such crimes or misdemeanours may be perpetrated: and to vest the Governor-General in Council and the Nizámat Adálat with a discretionary power as to the place of trial.* (Passed 12th September.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
IX (3 SECTIONS).—*A Regulation to extend the rules of Regulation V, 1809, and of Section 6, Regulation I, 1822, to Emigrants from Foreign States, and other aliens settled in the British Territories, or living and residing therein for a period of six months and upwards: also to provide for the execution, by Zillah and City Magistrates, of sentences passed by Tribunals established by Government in countries not subject to the general Regulations.* (Passed 19th September.)	The whole Reg. except in so far as it repeals any former Reg. was repealed by s. 1, Act I of 1849.
X (9 SECTIONS).—*A Regulation for exempting the Garrow Mountaineers and other rude tribes on the north-eastern frontier of Rungpore from the operation of the existing Regulations: and for establishing a special system of government for the tract of country occupied by them or bordering on their possessions.* (Passed 19th September.)	This Reg. was repealed by s. 3, Act XXII of 1869, save as to any settlement of land-revenue &c. made with zemindárs and other persons under its provisions.
XI (39 SECTIONS).—A Regulation for modifying and explaining the existing Regulations relative to the Sale of land for the recovery of Arrears of Revenue: for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice: and for making further provision for the conduct of the Revenue Officers in certain cases. (*Passed 22nd November.*)	So much of cl. 3, s. 3, as provides that joint estates shall not be liable to sale until the end of the year for arrears accruing during partition proceedings was repealed by s. 1, Act XX of 1836. Cl. 1, s. 21, was modified by cl. 1, s. 7, Reg. VII of 1830 (see also s. 1 of this Reg.). The Reg. was modified by s. 10, Act I of 1841: and wholly repealed by s. 1, Act XII of 1841, with the exception of ss. 36 and 38, and excepting so far as it repeals any other Regs. or parts of Regs. The preamble and ss. 2 and 36, so far as they relate to the North-Western Provinces, were repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces,—except the Scheduled District (see Schedules IV and V of Act XV of 1874.)

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1823.	
I (2 SECTIONS).—*A Regulation to amend certain parts of Regulation I*, 1821. (Passed 20th February.)	This Reg. was modified, as to the time within which claims must be made, by s. 1, Act III of 1835: and repealed in part by cl. 2, s. 10, Reg. I of 1829. The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
II (4 SECTIONS).—*A Regulation for the more effectual suppression of affrays.* (Passed 20th March.)	So much of this Reg. as authorizes corporal punishment in cases of affray, was repealed by s. 2, Reg. XII of 1825. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q.v.*
III (13 SECTIONS).—*A Regulation for preventing the establishment of Printing Presses without licence: and for restraining under certain circumstances, the circulation of printed books and papers.* (Passed 5th April.)	The whole Reg. was repealed by s. 1, Act XI of 1835.
IV (8 SECTIONS).—*A Regulation for declaring the intent of Section* 14, *Regulation VII*, 1794, *and for prohibiting the Judges of Circuit holding the Gaol Deliveries from trying any case in which the prisoner or prisoners may have been committed for trial by themselves in the capacity of Superintendent of Police, Magistrate, Joint Magistrate or Assistant Magistrate: for modifying the third and fourth clauses of Section* 2, *Regulation XIV*, 1811, *and for rescinding Sections* 4 *and* 5, *Regulation XXIV*, 1814, *and Sections* 2 *and* 4, *Regulation XXV*, 1814. (Passed 29th May.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (3 SECTIONS).—*A Regulation for giving currency throughout the provinces dependent on the Presidency of Fort William to Rawanahs issued by the Officers in charge of the Delhi territory: for reducing the transit duty chargeable on piece goods, the manufacture of the British territories, from seven and a half to two and a half per cent. and for making certain other alterations in the rules applicable to the collection of Customs.* (Passed 19th June.)	So much of this Reg. as relates to the rate of duty, drawback &c. was repealed by cl. 1, s. 2, Reg. XV of 1825. So much of this Reg. as had not been already repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
VI (8 SECTIONS).—A Regulation for authorizing the institution of Summary Suits to enforce the execution of certain written engagements for the cultivation and delivery of the Indigo plant and for declaring certain principles in regard to the same. (*Passed* 10*th July.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—In s. 3, clause *First*, the words "or city" and "or to a register exercising the powers of Joint Magistrate:" and in s. 6, the word "summary" (wherever it occurs), "nevertheless" and "by a summary award;" and the passage beginning with "they shall be either" and ending with "under this Regulation." Cl. 3, s. 5, was repealed by s. 1, Act X of 1836. Ss. 7 and 8 were repealed by s. 2, Act VII of 1870.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1823.	
VI.—(*Continued.*)	This Reg. was extended to the provinces of Orissa, Bahár and Benares and to the Ceded and Conquered Provinces by s. 2, Reg. V of 1824. It was declared to be in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts, by Act XV of 1874 (see Schedules IV and V).
VII (8 Sections).—A Regulation for prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence. (*Passed 30th October.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—S. 2, clause *Third*: in s. 3, the words "and city:" s. 5: and in s. 8, the words "Provincial": . . . . "by the Provincial Courts" and "of the Regulations." This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V, Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—see Note to page 1.
1824.	
I (15 Sections).—*A Regulation for enabling the officers of Government to obtain at a fair valuation land or other immovable property required for roads, canals or other public purposes, and for declaring in what manner the claims of the zemindárs and of the officers in the Salt Department are to be adjusted in certain districts, where lands are required for the purposes of salt manufacture.* (Passed 8th January.)	Ss. 1 to 7 inclusive, save in so far as they repeal any other Reg. or Act, were repealed by s. 1, Act VI of 1857. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (3 Sections).—*A Regulation for abolishing the Furruckabad Mint and for modifying some of the rules in force relative to the Furruckabad Rupee.* (Passed 5th February.)	This whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (2 Sections).—*A Regulation to empower Government to extend the jurisdiction of Registers in certain cases.* (Passed 12th February.)	Act X of 1861 repealed the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting in so far as it repeals any other Reg. &c.
IV (7 Sections).—*A Regulation to provide more effectually for the office of Register of Deeds.* (Passed 12th February.)	This Reg. was modified by s. 4, Reg. VII of 1832. S. 2 was modified by s. 1, Act XXX of 1838. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by s. 1, Act XVI of 1864, (see Schedule).

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1824.	
V (2 SECTIONS).—*A Regulation for extending the operation of Regulation VI*, 1823, *to the Provinces of Orissa, Bahár and Benares and to the Ceded and Conquered Provinces.* (Passed 4th March.)	The whole Reg. was repealed by s. 9, Act XV of 1874.
VI (5 SECTIONS).—*A Regulation for defining the course of proceeding to be pursued by the Magistrates with respect to individuals charged before them with two or more offences in certain cases: for modifying Clause second, Section 2, and for amending certain other provisions of Regulation XII*, 1818. (Passed 25th March.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VII (24 SECTIONS).—*A Regulation for explaining and amending certain parts of the Regulations at present in force respecting the manufacture and sale of spirituous liquors and intoxicating drugs; and for enacting certain rules for the better security of the revenue derived from the exclusive manufacture and sale of opium.* (Passed 25th March.)	The whole Reg. except the first five clauses of s. 18 and ss. 23 and 24, and except so far as it repeals any former Reg. or Act was repealed by s. 1, Act XXI of 1856. The first five clauses of s. 18, and ss. 23 and 24, except in so far as they repeal any former Reg. &c. were repealed by s. 1, Act XIII of 1857. Ss. 20 and 21 were modified by ss. 2 and 3, Reg. VIII of 1826.
VIII (15 SECTIONS).—*A Regulation for rescinding Regulation IV of* 1813, *for determining the rates of toll to be levied on Boats, Rafts, Timbers and the like passing through the Bhagiratti, Jellinghi, Issamatti, Matabhangah and Chirni rivers and for providing for the better collection of the toll, and for the secure navigation of the aforesaid and other navigable rivers.* (Passed 8th April.)	This Reg. will, under the provisions of s. 2, Act V (B. C.) of 1864, cease to apply to any navigable channel to which Act V may be extended under the provisions of the said section. The whole Reg. was repealed by s. 1, Act XII of 1873, save as therein provided.
IX (4 SECTIONS).—*A Regulation to extend with certain exceptions and conditions the existing settlement in the Conquered Provinces and in Bundlekund for a further period of five years.* (Passed 1st July.)	The whole Reg. except s. 4, was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed, so far as relates to the North-Western Provinces, by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
X (6 SECTIONS).—*A Regulation for modifying and amending the rules at present in force in regard to the pardon of persons charged with or suspected of Criminal offences.* (Passed 8th July.)	The whole Reg. save in so far as it repealed any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XI (6 SECTIONS).—*A Regulation for empowering the Zillah and City Judges and Magistrates to depute their Registers or Assistants for the purpose of making local investigations in certain cases.* (Passed 15th July.)	Act X of 1861 repealed the whole of this Reg. in so far as it applies to the Civil Courts in the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1824.	
XII (2 SECTIONS).—*A Regulation for reviving the penalty formerly imposed on wilful Revenue defaulters.* (Passed 22nd July.)	This whole Reg. was repealed by cl. 1, s. 2, Reg. VII of 1830.
XIII (5 SECTIONS).—*A Regulation for making further provisions relative to the office of Sadr Amín.* (Passed 22nd July.)	Act X of 1861 repeals the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XIV (10 SECTIONS).—*A Regulation for modifying the rules in force for referring to the Collectors Summary Suits in cases of arrear or exaction of rent.* (Passed 22nd July.)	Such parts of this Reg. as authorize Judges to take cognizance of summary suits for arrears of rent and refer them to the Collectors, were repealed by s. 2, Reg. VIII of 1831. The whole Reg. save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859.
XV (6 SECTIONS).—*A Regulation for enabling the Magistrates and Joint Magistrates to take summary cognizance of cases of forcible dispossession from or disturbance in the possession of land or other property, subject to a regular suit in the Civil Court.* (Passed 22nd July.)	S. 3 was modified by cl. 2, s. 2, Reg. IV of 1828. S. 6 was repealed by s. 2, Reg. II of 1829. The whole Reg. together with any Reg. that extends it to any places within the Presidency of Bengal was repealed by s. 1, Act IV of 1840.
XVI (19 SECTIONS).—*A Regulation for rescinding and modifying certain parts of the existing Regulations relating to the collection of stamp duties.* (Passed 18th November.)	The whole Reg. was repealed by s. 2, Reg. X of 1829.
1825.	
I (3 SECTIONS).—*A Regulation for declaring the Judicial Officers competent to superintend the execution of their own process in certain cases: and for extending to officers entrusted with the execution of a Magistrate's warrant, or other criminal process, the powers vested in Police Officers by certain provisions in Regulation XX, 1817.* (Passed 13th January.)	Act X of 1861 repealed so much of s. 2 as relates to the Civil Courts in the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
II (5 SECTIONS).—*A Regulation for amending the rules in force relative to applications for a review of judgment in regular original suits and appeals: and for restricting the admission of special or second Appeals by the Provincial Courts and Court of Sádr Díwání Adálat.* (Passed 24th March.)	Act X of 1861 repealed the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
III (3 SECTIONS).—*A Regulation for empowering the Courts of Circuit to pass sentence in certain cases of robbery without reference to the Court of Nizámat Adálat.* (Passed 24th March.)	The whole Reg. was repealed by s. 2, Reg. XVI of 1825.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1825.	
IV (5 SECTIONS).—*A Regulation for declaring the Magistrates and Criminal Courts empowered to require recognizances and security for keeping the peace in certain cases; and for explaining some of the provisions contained in Regulation VIII*, 1818, *relative to security for good behaviour.* (Passed 24th March.)	S. 4 was repealed by s. 1, Act V of 1848. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (3 SECTIONS).—*A Regulation for removing certain doubts as to the legality of an union of the powers of Judge and Collector in the same individual.* (Passed 4th April.)	The whole Reg. was repealed by Act VIII of 1868 save as provided in s. 1, *idem, q. v.*
VI (5 SECTIONS).—A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceedings through the British territories. (*Passed 4th April.*)	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces except the Scheduled Districts—See Schedules IV and V of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—see Note to page 1.
VII (7 SECTIONS).—*A Regulation to explain and amend the rules in force for the execution of decrees or other judicial process by the sale of landed property or otherwise.* (Passed 14th April.)	Cls. 2 and 3, s. 4, together with all extensions of the same, were repealed by ss. 1 and 2, Act IV of 1846. Act X of 1861 repealed the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
VIII (6 SECTIONS).—*A Regulation to make further provision for the employment of Native Officers in the judicial department, and to provide for the punishment of false and malicious charges against the European Officers of Government.* (Passed 5th May.)	Cl. 1, s. 2, was modified by s. 6, Reg. III of 1826. Ss. 5 and 6 were repealed by s. 1, Act XXVI of 1839. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IX (9 SECTIONS).—A Regulation for extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the malguzars or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819, and for making certain other amendments in the existing Regulations. (*Passed 5th May.*)	So much of cl. 9, s. 5, as provides that s. 25 of Reg. VII of 1822 shall be applicable to cases investigated by Collectors under the Rules of Reg. II of 1819, or under the provisions of Reg. IX of 1825, save in so far as it repeals any prior enactment, was repealed by s. 3, Act XX of 1865, so far as applies to the Lower Provinces and the North-Western Provinces and those Provinces to which Act XX may be extended under s. 47, *idem.* The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV, Act XV of 1874.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1825.	
X (3 Sections).—*A Regulation more distinctly to define the meaning and intent of the provisions contained in Regulations XXXI of* 1793 *and XXXVII of* 1803, *which prescribe rules for the conduct of Commercial Residents carrying on trade for themselves.* (Passed 19th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XI (5 Sections).—A Regulation for declaring the rules to be observed in determining claims to lands gained by Alluvion or by Dereliction of a river or the sea. (*Passed 26th May.*)	The whole Reg. was declared to be in force in the Panjáb by s. 3, Act IV of 1872—See Schedule I. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—See Note to page 1.
XII (8 Sections).—*A Regulation for defining the powers of the Courts of Circuit and of the Nizámat Adálat in certain cases: for the uniform punishment of contempts of Court in any of the Courts of Judicature, Civil or Criminal: for exempting females from Corporal punishment by Stripes: and for discontinuing the Korah as an instrument of punishment in all cases.* (Passed 26th May.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XIII (5 Sections).—A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by Kanúngos in the province of Bahár: and to provide for the future settlement of such lands, as well as of the lands composing other resumed Lakheraj Tenures, with the present occupants, when so directed by Government. (*Passed 7th July.*)	The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—See Note to page 1.
XIV (6 Sections).—A Regulation to declare the extent of the authority possessed by the Revenue Authorities, subordinate to the Governor-General in Council in the confirmation of Lakheraj tenures: to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government: and to provide for the due application of the general Laws and Regulations respect-	S. 5 was repealed by s. 1, Act XII of 1873, save as therein provided. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided: *viz:* S. 6 from and including the words "to the Provincial Court" down to and including "pounds sterling." In the same section, the words "or Provincial." The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—See Note to page 1.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1825.	
XIV.—(*Continued.*)	
ing lands held free of assessment, to the territory ceded by Gobind Rao to the British Government, and annexed to the Zillah of Bundlekund, under the provisions of Regulation II, 1818. (*Passed 14th July.*)	
XV (3 SECTIONS).—*A Regulation to make certain alterations in the rates of duty charged, and drawbacks allowed on goods imported or exported by sea at the port of Calcutta or any other place within the territories immediately subordinate to the Presidency of Fort William and to amend and consolidate the rules in force relative to such duties and drawbacks.* (Passed 14th July.)	Such parts of this Reg. as relate to the levy of transit or inland custom duties together with the schedules were repealed by s. 1, Act XIV of 1836. The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on Salt or Opium, was repealed by s. 2, Act VI of 1863. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XVI (3 SECTIONS).—*A Regulation to make further provision for empowering the Courts of Circuit to pass sentence in certain cases of robbery without reference to the Court of Nizámat Adálat.* (Passed 21st July.)	Cl. 2, s. 3, was repealed by s. 2, Reg. I of 1831. The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XVII (6 SECTIONS).—*A Regulation for transferring the Zillah of Goruckpúr from the Jurisdiction of the Provincial Court of Appeal and Circuit of Benares and annexing it to that of the Court of Appeal and Circuit of Patna; for changing the order of holding the half yearly Jail Deliveries at the stations comprised within the several Circuits: for providing that the Sessions shall be held in future at the stations of certain Joint Magistrates: for authorizing special arrangements with respect to others and for altering the periods fixed for the commencement of the first and second Circuits of the Calcutta Division.* (Passed 4th August.)	This Reg. and all other Regulations, which define the local jurisdictions of the several Courts of Circuit or fix the time and order in which the several Gaol Deliveries are to be held &c. were repealed by cl. 1, s. 5, Reg. I of 1829.
XVIII (10 SECTIONS).—A Regulation for annexing the Settlement of Chinsurah, and other territories ceded to the British Government by the Government of the Netherlands to the Zillah and City jurisdictions most contiguous thereto: and to provide for the administration of the said territories. (*Passed 25th August.*)	Ss. 4, 5, 8, 9, and 10 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1825.	
XIX (4 SECTIONS).—*A Regulation to prescribe the manner in which His Highness the Názim of Bengal shall sue or be sued in the Courts of Civil Judicature.* (Passed 29th September.)	The whole Reg. was repealed by s. 1, Act XXVII of 1854.
XX (4 SECTIONS).—A Regulation for declaring the jurisdiction of the Military Courts Martial and Courts of Request, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto. (*Passed 3rd November.*)	So much of this Reg. as relates to Military Courts of Request was repealed by s. 1, Act XI of 1841, which repeals all Regulations or parts of Regulations concerning such Courts. In s. 4, the words "or city", and the words and figures "under the provisions of Regulation L, 1803," were repealed by s. 1, Act XVI of 1874, save as therein provided. Ss. 2 and 4 were declared to be in force in the Panjáb by s. 3, Act IV of 1872, see Schedule I. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874.
XXI (4 SECTIONS).—*A Regulation for annexing to the jurisdiction of the Commissioner of Kumaon the tract of country called the Deyra Dún, and also the Pargana of Chandú, heretofore forming part of the districts of Saharanpore and Moradabad.* (Passed 8th December.)	Such parts of this Reg. as declare the Dehra Dún to be annexed to Kumaon and that the provisions of Reg. X of 1817 shall be applicable thereto were repealed by s. 2, Reg. V of 1829. The whole Reg. was repealed by s. 9, Act XV of 1874.
1826.	
I (2 SECTIONS).—*A Regulation for augmenting the number of Judges of the Provincial Courts of Appeal and Circuit, as may from time to time appear necessary.* (Passed 2nd March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
II (4 SECTIONS).—*A Regulation to extend with certain exceptions and conditions the existing settlement in the Provinces ceded by the Nawáb Vizier to the British Government, for a further period of five years.* (Passed 26th April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (6 SECTIONS).—*A Regulation for extending to Díwání prisoners some of the provisions in Regulation XIV, 1816: and for modifying the rule contained in Section 3, Regulation IV, 1816.* (Passed 11th May.)	This Reg. so far as it relates to the Bengal Division of the Presidency of Fort William, was repealed by s. 1, Act II (B. C.) of 1864, always saving so far as it repeals or modifies any prior Reg. &c. The whole Reg. was repealed by s. 2, Act XXVI of 1870 (See Schedule.)
IV (4 SECTIONS).—*A Regulation for expediting the proceedings of the Mofussil and Sádr Special Commissions acting under the provisions of Regulation I, 1821.* (Passed 22nd June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1826.	
V (6 Sections).—*A Regulation for annexing to the Zillah of Agra the Pargana of Goberdhan.* (Passed 22nd June.)	S. 2 except the first twelve words, and ss. 3, 4, and 5, were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.
VI (3 Sections).—*A Regulation for constituting the Jurisdiction of the Joint Magistrate, stationed at Futtehpore, a distinct Zillah.* (Passed 13th July.)	The whole Reg. was repealed by s. 9, Act XV of 1874.
VII (2 Sections).—*A Regulation for transferring the Control of the Benarés Mint from the Board of Revenue in the Central Provinces to a Local Committee.* (Passed 13th July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VIII (3 Sections).—*A Regulation for modifying certain parts of Regulation VII, 1824, relative to contraband Opium.* (Passed 13th July.)	This whole Reg. was repealed except in so far as it repeals any other Reg. or Act, by s. 1, Act XXI of 1856.
IX (5 Sections).—*A Regulation for transferring the Superintendence of the Custom House at Patna from the Board of Revenue in the Central Provinces to the Board of Customs at the Presidency: and for vesting the latter Board with the control of the other Customs in the Central and Western Provinces, and in the Province of Cuttack concurrently with the Central and Western Boards of Revenue and the Commissioner of Cuttack respectively.* (Passed 13th July.)	So much of this Reg. as vests the Board of Customs, Salt and Opium with the control of the customs &c. was modified by s. 2, Reg. I of 1833. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
X (4 Sections).—*A Regulation for removing doubts as to the application of Section 50, Regulation X, 1819, to the district of Goruckpur: for prohibiting the Manufacture within any of the Districts of Bengal, Bahár and Orissa of Núnchai or any description of saline substance used as a condiment with food, excepting on account of or with the permission of Government and for providing for the retail Sale of Salt by Government Officers in certain cases.* (Passed 13th July.)	S. 2 relating to Goruckpur was repealed by s. 1, Act XVI of 1848. This Reg. save in so far as it repeals any other Reg. &c. ceased to have effect in the Bengal Division of the Presidency of Fort William, as provided by s. 2, Act VII (B. C.) of 1864. So much as had not been previously repealed was repealed by s. 2, Act VIII of 1875, so far as relates to the North-Western Provinces, the Panjáb, Oudh and the Central Provinces—(See the Extent Clause in s. 1.)
XI (6 Sections).—*A Regulation for providing a succession of duly-qualified Hindu and Mahomadan Law-Officers in the several Courts of Justice: and for enacting an additional rule for the appointment of Vakils in the Zillah and City Courts.* (Passed 4th August.)	Ss. 1, 2, 3 and 4, save in so far as they repeal any other Reg. &c. were repealed by Act XI of 1864. S. 5 was repealed by s. 1, Act V of 1845. S. 6 was repealed by s. 1, Act I of 1846.
XII (15 Sections).—*A Regulation for raising and levying Stamp Duties within the Town of Calcutta.* (Passed 14th December.)	S. 6 was modified by s. 1, Act XVIII of 1856. The whole Reg. except in so far as it repeals any other Reg. &c. was repealed by s. 1, Act XXXVI of 1860.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1827.	
I (4 SECTIONS).—*A Regulation for rescinding Regulation I, 1796, and providing a special form of trial for the mountaineers of Bhaugulpore, also for investing the Magistrate of Bhaugulpore with summary powers for the adjustment of certain Civil claims.* (Passed 8th March.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
II (2 SECTIONS).—*A Regulation to legalize certain criminal trials held in the Division of Bareilly.* (Passed 17th May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (6 SECTIONS).—A Regulation for modifying and amending the rules in force relative to the Law-Officers and Ministerial Native Officers of the Courts of Judicature, who may be guilty of corruption or extortion. (*Passed 1st November.*)	So much of ss. 1, 2, 3 and 4 as relates to Law-Officers was repealed by Act XI of 1864, save in so far as it repeals any other Reg. &c. The whole Reg. except s. 5, was repealed by s. 1, Act XVI of 1874, save as therein provided. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874.
IV (3 SECTIONS).—*A Regulation for extending, in special cases, the powers of Sádr Amíns in the trial and decision of Civil Suits.* (Passed 27th December.)	S. 2 was repealed by cl. 1, s. 15, Reg. V of 1831. Act X of 1861 repealed the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
V (4 SECTIONS).—A Regulation for modifying the rules at present in force for the management of Estates under Attachment by orders of the Courts of Justice in certain cases. (*Passed 27th December.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz*:—In s. 2, the words and figures "and sections XXVI and XXVII, Regulation V, 1812, and clause *Third*, section V, Regulation VI, 1813:" in ss. 2 and 3, the words "and City:" in s. 4 the words "or City." This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874.
1828.	
I (2 SECTIONS).—*A Regulation for empowering the Governor-General in Council to commute sentences of imprisonment for life in the Alipore Gaol to transportation for life to any of the British Settlements in Asia, in certain cases.* (Passed 10th April.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
II (2 SECTIONS).—*A Regulation for rescinding parts of Reg. I, 1799.* (Passed 10th April.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1828.	
III (13 Sections).—A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue Authorities in regard to lands or rents occupied or collected by individuals without payment of the revenue demandable by Government under the general law of the country, and for otherwise more effectually securing the realization of the public dues. (*Passed 12th June.*)	The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz:*—In s. 2, clause *Third*, the words "through the Court of Sudder Dewanny Adawlut," and "Provincial and:" in s. 4, clause *First*, the words "in a Persian roobukaree:" s. 6, clauses *Sixth and Seventh:* in s. 10, clause *Fourth*, the words "the Provincial Courts, or," . . . "or the Provincial," . . . "respectively:" in s. 10, clause *Fifth*, from and including the words "and the Civil Courts" to the end of the section: and s. 11, clause *First*. Cls. 4 and 5 of s. 2 were modified by cl. 1, s. 2, Reg. IV of 1829. S. 9 was repealed by s. 1, Act. XII of 1873, save as therein provided. As to cl. 5, s. 4, see s. 24, Act VI of 1874. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem*. This Reg. is in force througout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV of Act XV of 1874.
IV (2 Sections).—A Regulation to declare and extend the powers to be exercised by Collectors, when making or revising Settlements under the provisions of Regulation VII of 1822. (*Passed 7th August.*)	Cls. 1, 2 and 3 of s. 2 were repealed by s. 4, Reg. IX of 1833. The following portions were repealed by s. 1, Act XVI of 1874, save as therein provided, *viz.*—In s. 2, clause *Fourth*, before the word "magistrates," the words "the powers vested in;" and the words and figures "by Regulation XV, 1824, shall be suspended in regard to all mehauls of which the settlement may be so in progress; and the said officers". The whole Reg. so far as it relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem*. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV of Act XV of 1874.
V (2 Sections).—*A Regulation for authorizing the Zillah and City Courts to execute awards of Military Courts in certain cases* (Passed 28th August.)	This Reg. was repealed by s. 1, Act XI of 1841, which repeals all Regs. or parts of Regs. concerning Military Courts of Requests. [See s. 15, *id.* and note the words '*or elsewhere.*']
VI (2 Sections).—*A Regulation to explain the intent and meaning of certain parts of Regulation II*, 1823. (Passed 4th September.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1828.	
VII (26 Sections).—A Regulation for amending the provisions of Regulation XV, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to. (*Passed 12th September.*)	
VIII (3 Sections).—*A Regulation for enlarging the powers of the Magistrates with regard to the offence of affrays.* (Passed 16th October.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q.v.*
IX (3 Sections).—*A Regulation for amending the rules in force in regard to Special or Second Appeals, instituted in formâ pauperis.* (Passed 27th November.)	This Reg. is spent. The unrepealed portions were repealed by Act XXIX of 1871 save as therein provided.
1829.	
I (10 Sections).—A Regulation for constituting Commissioners of Revenue and Circuit: for establishing a Sádr Board of Revenue: for modifying the constitution of the Provincial Courts: for transferring to the said Commissioners the functions now exercised by the Superintendents of Police, and those of the Mofussil Special Commissioners acting under the provisions of Regulation I, 1821: and otherwise for providing for the better administration of Civil and Criminal Justice. (*Passed 1st January.*)	This Reg. was modified by s. 1, Reg. VII of 1831 [Reg. VII of 1831 has been repealed.] Ss. 3 and 5 were repealed by s. 1, Act XVI of 1874, save as provided therein. Cl. 3, s. 3, was explained by s. 4, Reg. II of 1831. Cl. 4, s. 3, was explained by s. 2, Reg. IV of 1830. S. 4 was modified by s. 2, Reg. X of 1831. So much of s. 8, as confers upon the Commissioner of Cuttack the powers of a Provincial Court of Appeal in regard to the district of Midnapore, was repealed by s. 2, Reg. I of 1830. So much of cl. 2, s. 9, as vests the Resident at Delhi with the powers of the Sádr Díwání and Nizámat Adálat in the Northern Doab &c. was repealed by cl. 1, s. 8, Reg. VI of 1831; and so much of the same clause as vests the Resident at Delhi with the powers of the Sádr Board in the Northern Doab &c. was repealed by s. 4, Reg. X of 1831. Cl. 2, s. 10, was explained by s. 3, Reg. IV of 1829 and modified by cl. 1, s. 3, Reg. XVIII of 1829, also by s. 1, Act III of 1835. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* It is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV of Act XV of 1874.
II (4 Sections).—*A Regulation for rescinding Section 6, Regulation XV, 1824, and for declaring all orders passed by Magistrates and Joint Magistrates under that Regulation open to appeal to the Commissioners of Circuit.* (Passed 10th March.)	The whole Reg. together with any Reg. that extends it to any places in the Presidency of Bengal was repealed by s. 1, Act IV of 1840.

No. of Regulation and number of Sections therein; Title or Description; Date of Passng, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1829.	
III (7 Sections).—*A Regulation for abolishing certain official designations amongst the Judges of the Courts of Sádr Díwání and Nizámat Adálat, and of the Provincial Courts: for amending the rules at present in force, which require the Judges of the Courts of Sádr Díwání and Nizámat Adálat, or other public Officers, to take the prescribed oaths of office before the Governor-General in Council: for providing for the decision of Civil Suits and appeals in the Provincial Courts in certain cases: for amending Regulation VIII,* 1825, *and for discontinuing the offices of Hindu and Mahomadan Law Officer in the Provincial Courts.* (Passed 28th April.)	Ss. 1, 2, 3, 4, and 5 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* S. 7 save in so far as it repeals any prior Reg. &c. was repealed by Act XI of 1864. The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
IV (3 Sections).—A Regulation for modifying in certain cases the rules laid down in clauses fourth and fifth, section 2, Regulation III, 1828, relative to the appeals to the Special Commissioners appointed under that Regulation; also for modifying part of clause second, section 10, Regulation I, 1829. (*Passed 5th May.*)	The words "or City" and "or of a Provincial Court" in cl. 1 of s. 2, were repealed by s. 1, Act XVI of 1874, save as therein provided. S. 3 was repealed by s. 2, Reg. XVIII of 1829. The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal, except the Scheduled Districts—see Schedule IV, Act XV of 1874.
V (3 Sections).—*A Regulation for rescinding part of Regulation X,* 1817, *and parts of Regulation XXI,* 1825. (Passed 12th May.)	S. 2 and cl. 1 of s. 3 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* The whole Reg. was repealed by s. 9, Act XV of 1874.
VI (3 Sections).—*A Regulation for extending the powers of the Magistrates and Joint Magistrates in certain cases of theft.* (Passed 9th June.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VII (3 Sections).—*A Regulation for rescinding such parts of the existing Regulations as prescribe forms for periodical Reports, Calendars, Registers or other statements to be furnished by the Civil or Criminal authorities, and require the same to be forwarded at periods specified; and declaratory of the power to prescribe the forms of such statements vested in the Courts of Sádr Díwání and Nizámat Adálat by Regulation X of* 1796 *Section* 3, *and Regulation XX of* 1803 *Section* 3. (Passed 9th June.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
VIII (3 Sections).—*A Regulation for amending Regulation V of* 1809 *and Regulation I of* 1822. (Passed 9th June.)	The whole Reg. except in so far as it repeals any former Reg. was repealed by s. 1, Act I of 1849.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1829.	
IX (4 SECTIONS).—*A Regulation for rescinding some of the rules of Regulation XXXI*, 1793, *and the corresponding rules for Benares and the Ceded Provinces and for placing the Commercial Agents of the East India Company on the same footing towards natives of the country as other persons.* (Passed 9th June.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
X (21 SECTIONS).—*A Regulation for consolidating into one Regulation with modifications the existing enactments relating to the collection of Stamp Duties.* (Passed 16th June.)	This Reg. was amended by Act XLI of 1858. So much of s. 7, as provides that the officer to whom the management of the stamp duties may be transferred shall be a covenanted officer was repealed by Act XXVIII of 1837. S. 18 was repealed by s. 1, Act XVIII of 1852. The rule in Schedule B, as to the stamped paper on which pleadings should be written, was modified by s. 3, Reg. VII of 1832. The whole Reg. save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act XXXVI of 1860.
XI (2 SECTIONS).—*A Regulation for modifying the rules in force relative to the Construction and Repair of Embankments.* (Passed 7th July.)	This whole Reg. save in so far as it repeals any former Reg. was repealed by s. 1, Act XXXII of 1855, so far as relates to the territories under the Lieutenant-Governor of Bengal. The whole Regulation, so far as it applies to the territories under the Government of the Lieutenant-Governor of the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XII (4 SECTIONS).—*A Regulation for modifying the provisions of Regulation XII of* 1825. (Passed 7th July.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
XIII (5 SECTIONS).—*A Regulation for abolishing the office of Superintendent and Remembrancer of Legal Affairs.* (Passed 14th July.)	Act X of 1861 repealed s. 5 of this Reg. so far as the same applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c. So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
XIV (3 SECTIONS).—*A Regulation for extending the rules contained in Section 7, Regulation IX*, 1819, *to the cases of persons resident within a foreign territory.* (Passed 1st September.)	Act X of 1861 repealed the whole of this Reg. so far as it applies to the territories to which Act VIII of 1869 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
XV (3 SECTIONS).—*A Regulation for altering the mode of valuing goods imported by sea, with a view to the assessment of Custom Duties thereon.* (Passed 15th September.)	Cl. 2, s. 3, was modified by cl. 1, s. 2, Reg. III of 1803. The whole Reg. except s. 2 was repealed by s. 2, Reg. VI of 1833. The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on Salt or Opium was repealed by s. 1, Act VI of 1863.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1829.	
XV.—(*Continued.*)	So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
XVI (10 Sections).—*A Regulation for increasing the rates of duty on Western Salts imported into or in transit through the Ceded and Conquered Provinces: for levying a further duty on those Salts on their entering the province of Benares, and for remitting the town duty leviable under the existing Regulations on Western Salts imported for consumption into the city of Benares or towns of Mirzapore and Ghazipore.* (Passed 24th November.)	The whole Reg. was repealed by s. 1, Act XIV of 1843.
XVII (5 Sections).—A Regulation for declaring the practice of Satí, or of burning or burying alive the widows of Hindús illegal and punishable by the Criminal Courts. (*Passed 4th December.*)	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874. It had previously been declared to be in force in the Santhal Parganas—see Note to page 1. Ss. 4 and 5, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.*
XVIII (2 Sections).—*A Regulation to rescind Section 3 Regulation IV*, 1829, *and to make further modifications in the provisions of Regulation I*, 1821, *and Regulation I*, 1829. (Passed 8th December.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
1830.	
I (3 Sections).—*A Regulation for rescinding certain provisions of Regulation I of* 1829 *in regard to the administration of Civil Justice in Zillah Midnapore.* (Passed 12th January.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.*
II (2 Sections).—*A Regulation for rescinding and re-enacting with modifications, the provisions contained in Regulation VII*, 1818, *for regulating the trade of foreign nations with the ports and settlements of the British nation in the East Indies.* (Passed 26th January.)	The unrepealed portions were repealed by Act XXIX of 1871, save as therein provided.
III (3 Sections).—*A Regulation for amending part of the rules of Regulation XV*, 1829, *and likewise for better enforcing the payment of duty on the exportation of goods by sea.* (Passed 26th January.)	The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on Salt or Opium, was repealed by s. 2, Act VI of 1863. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1830.	
IV (3 SECTIONS).—*A Regulation to explain the intent and meaning of Clause fourth, Section 3, Regulation I,* 1829. (Passed 9th March.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
V (5 SECTIONS).—A Regulation for amending the provisions of Regulation VI, 1823, and for providing more effectually for enforcing the execution of contracts relating to the cultivation and delivery of Indigo plant. (*Passed 9th June.*)	Part of s. 2, and s. 3, were repealed by Act XVI of 1835. S. 2 was wholly repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* S. 4 was repealed by s. 1, Act III of 1857. This Reg. is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedules IV and V of Act XV of 1874.
VI (5 SECTIONS).—*A Regulation for modifying the provisions of the Regulations now in force relating to the subsistence allowance to debtors confined in the Civil Gaols in execution of decrees.* (Passed 12th August.)	Act X of 1861 repealed the whole of this Reg. in so far as it applies to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as it repeals any other Reg. &c.
VII (8 SECTIONS).—*A Regulation for modifying the existing rules regarding the public sale of permanently assessed lands for the recovery of arrears of revenue and for the levy of interest and penalty on such arrears.* (Passed 7th September.)	This Reg. was repealed by s. 1, Act XII of 1841, except in so far as it repeals other Regulations or parts of Regulations.
VIII (2 SECTIONS).—*A Regulation for modifying the existing rules relative to the inquiry by Magistrates and Joint Magistrates into charges of a criminal nature.* (Passed 12th October.)	The whole Reg. save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.*
1831.	
I (2 SECTIONS).—*A Regulation for rescinding Clause Second, Section 3, Regulation XVI,* 1825. (Passed 8th February.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s 1, *idem, q. v.*
II (4 SECTIONS).—*A Regulation to remove doubts regarding the legality of certain Criminal trials.* (Passed 31st May.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (5 SECTIONS).—*A Regulation for legalizing the circulation of Copper half-anna and single pie pieces.* (Passed 18th October.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
IV (3 SECTIONS).—*A Regulation for amending Section 11, Regulation V,* 1830, *of Prince of Wales' Island, Singapore and Malacca.* (Passed 18th October.)	Cl. 1, s. 3, was repealed by s. 2, Reg. X of 1833. The whole Reg. was repealed by s. 1, Act XIV of 1851.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1831.	
V (30 SECTIONS).—*A Regulation for extending the powers of Munsifs and Sádr Amíns in the trial of Civil Suits: and for authorizing the appointment of Principal Sádr Amíns at the Zillah and City Stations: for modifying the powers and duties of Zillah, City, and Provincial Courts in connection with those arrangements: and for enlarging the sphere of selection with regard to the offices of Munsif and Vakil.* (Passed 1st November.)	The proviso to cl. 1 and the proviso to cl. 2 of s. 5; ss. 7, 8, 9, 10; cl. 3 of s. 16; the proviso of cl. 1 of s. 18, and cl. 4 of the same section; ss. 19, 20, 21, 22, 23, 24, 25, 28 and 29 were repealed by Act X of 1861 in so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c. Cl. 4, s. 5, was repealed by s. 6, Act VI of 1843. Cl. 5, s. 5; cl. 3, s. 15; so much of cl. 3, s. 8 as relates to certain clauses and sections of Reg. XXIII of 1814; and s. 6 except so far as it repeals ss. 57, 58 and 59 of the same Reg. were repealed by s. 1, Act XXVI of 1852. S. 11 was repealed by s. 7, Reg. VII of 1832. Cl. 2, s. 15, was modified by s. 4, Act XXVI of 1852. Cl. 3, s. 15, was modified by s. 7, *idem.* Cl. 4, s. 18, was modified by s. 1, Act VI of 1843. S. 18 was modified by s. 1, Act XXV of 1837 and repealed in part by s. 1, Act XXVII of 1838. S. 22 was modified by s. 5, Act VI of 1843. Cl. 1, s. 25, was repealed by s. 10, Act XXV of 1837. Cl. 2, s. 25, was extended to ministerial officers of the Munsif's Courts by s. 11, Act XXV of 1837. Cl. 2, s. 27, was modified by s. 2, Reg. II of 1833. S. 30 was modified by cl. 1, s. 2, Reg. XII of 1833, and repealed by s. 1, Act I of 1846. So much of this Reg. as had not been previously repealed was repealed by s. 1, Act XVI of 1868—see Schedule.
VI (15 SECTIONS).—A Regulation for the appointment of one or more Judges to be ordinarily stationed at Allahabad, for the purpose of exercising the powers and authority of the Sádr Díwání and Nizámat Adálat, within the province of Benares, the Ceded and Conquered Provinces, including the districts of Mírat, Saharanpúr, Múzuffernagar and Búlandshahar, which are now subject to the Chief Commissioner at Delhi, and the powers and authority of the Nizámat Adálat in the province of Kumaon and the Saugar and Narbadda Territories. (*Passed 1st November.*)	Ss. 1, 2, 3, 4, 5 and 8 were repealed by s. 1, Act XVI of 1874, save as therein provided. S. 4 was modified by s. 6, Reg. VI of 1832. S. 7, so far as it relates to the Court of Sádr Díwání Adálat, was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* S. 8 was modified by s. 14, Reg. VII of 1832. Ss. 12 and 13, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* This Reg. is in force throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts—see Schedule V of Act XV of 1874.
VII (13 SECTIONS).—*A Regulation for enabling the Governor-General in Council to afford relief to the Commissioners of Circuit by vesting the Zillah and City Judges, not being Magistrates, with powers to hold monthly Gaol Deliveries within their respective Jurisdictions (whenever that measure may be deemed advisable), and for defining the powers and duties of*	Ss. 5 and 6 and so much of s. 7 as relates to Sessions Judges, save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* So much of this Reg. as had not been previously repealed was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1831.	
VII.—(*Continued.*)	
the Judges or other officers, not being in charge of the Office of Commissioner, who may be appointed to hold any Gaol Delivery, while so employed. (Passed 1st November.)	
VIII (21 SECTIONS).—*A Regulation for amending the existing provisions relative to the trial of Summary Suits and Claims for Arrears or exactions of Rent.* (Passed 1st November.)	S. 19 was modified by s. 10, Reg. VII of 1832, and so much of the same section as provides that the suits mentioned therein shall not be cognizable by Sádr Amíns or Munsifs, was repealed by s. 2, Act XXV of 1837. The whole Reg. save in so far as it repeals any other Reg. &c. was repealed by s. 1, Act X of 1859.
IX (10 SECTIONS).—*A Regulation for the more speedy and efficient administration of Justice in the Courts of Sádr Díwání and Nizámat Adálat.* (Passed 1st November.)	S. 2 was explained by s. 15, Reg. VII of 1832. Act X of 1861 repealed ss. 2 and 8 and so much of s. 10 as extended those sections to the Sádr Díwání Adálat for the North-Western Provinces, in so far as the same apply to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c. Ss. 3 and 4 save in so far as they repealed any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* So much of s. 5 as was then in force was repealed by s. 1, Act XIX of 1848. S. 7 was repealed by s 1, Act I of 1846. So much as had not been previously repealed was repealed by Act VIII of 1868 save as provided in s. 1, *idem*, *q. v.*
X (11 SECTIONS).—A Regulation for vesting in a deputation from the Sádr Board of Revenue, to be ordinarily stationed at Allahabad, the exclusive control over the Revenue Affairs of the Province of Benares, the Ceded and Conquered Provinces, including the districts of Mírat, Saharanpúr, Múzuffernagar and Búlandshahar (which are now subject to the Chief Commissioner at Delhi), the Province of Kumaon and the Saugor and Narbadda Territories. (*Passed 1st November.*)	The whole Reg. so far as it relates to the North-Western Provinces, was repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.*
XI (8 SECTIONS).—A Regulation for vesting Tehsildars in certain cases with the powers of Police Officers. (*Passed 1st November.*)	This Reg. was amended and extended to Benares by Act XVI of 1854. It is in force throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces except the Scheduled Districts—see Schedule V of Act XV of 1874. Ss. 3 and 7 were repealed by s. 1, Act XVI of 1854. S. 8 was repealed by s. 1, Act XVI of 1874, save as therein provided.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1832.	
I (7 SECTIONS).—*A Regulation for suspending the operation of the Laws and Regulations within the limits of the Jagír assigned to the Mahárájá Bají Rao Bahádur and for defining the mode of address to be used in communications to the Mahárájá.* (Passed 7th February.)	The whole Reg. was repealed by s. 1, Act IX of 1852.
II (4 SECTIONS).—*A Regulation for the better administration of Criminal Justice and the Police in certain cases.* (Passed 14th February.)	Ss. 2 and 3 save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* S. 4 was repealed by s. 1, Act XX of 1856. So much as had not been previously repealed was repealed by Act VIII of 1868 save as provided in s. 1, *idem*, *q. v.*
III (2 SECTIONS).—*A Regulation for extending the provisions of Regulation X*, 1811. (Passed 13th March.)	Cl. 2 of s. 2 save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* So much as had not been previously repealed was repealed by Act VIII of 1868 save as provided in s. 1, *idem*, *q. v.*
IV (2 SECTIONS).—*A Regulation for declaring and explaining the meaning and intention of Section* 41, *Regulation X*, 1819. (Passed 13th March.)	This Reg. save in so far as it repeals any other Reg. &c. ceased to have effect in the Bengal Division of the Presidency of Fort William as provided by s. 2, Act VII (B.C.) of 1864. The whole Reg. was repealed by s. 2, Act VIII of 1875, so far as relates to the North-Western Provinces, the Panjáb, Oudh and the Central Provinces. (See Extent Clause in s. 1.)
V (4 SECTIONS).—A Regulation for annexing the Delhi Territory to the Jurisdiction of the Courts of Sádr Díwání and Nizámat Adálat and the Sádr Board of Revenue at Allahabad. (*Passed* 29*th* May.)	The whole Reg. except in so far as it refers to the tract called the Eastern Pargána lying on the left bank of the Jumna, was repealed by s. 1, Act XXXVIII of 1858.
VI (6 SECTIONS). — *A Regulation for enabling European Functionaries to avail themselves of the assistance of respectable Natives in the administration of Civil or Criminal Justice, and for modifying or dispensing with Fatwas by Mahomadan Law Officers in certain trials.* (Passed 31st July.)	S. 4 was modified by s. 1, Act III of 1860. Ss. 4, 5 and 6 save in so far as they repeal any prior Reg. &c. were repealed by Act XVII of 1862, *q. v.* The whole Reg. so far as relates to Courts for the administration of Civil Justice, was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, *q. v.* So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
VII (18 SECTIONS).—*A Regulation for modifying certain of the provisions of Regulation V*, 1831, *and for providing Supplementary Rules to that enactment.* (Passed 16th October.)	Cl. 2, s. 2, was repealed by s. 9, Act XXV of 1837. S. 4 save in so far as it repeals any prior Reg. &c. was repealed by s. 1, Act XVI of 1864. (See Schedule.) Act X of 1861 repealed ss. 2, 3, 6, 7, 10, 12, 13, 14, 15, 16 and 17, so far as they apply to the territories to which Act VIII of 1859 has been or may be extended, always excepting so far as they repeal any other Reg. &c.

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1832.	
VII.—(*Continued.*)	So much of cl. 4, s. 5, as enacts that the duties of Nazir shall in the Munsifs' Courts be performed by the Munsifs themselves, and that the Talabana in the Munsifs' Courts shall be only three-fourths of that levied in the Judges' Courts, was repealed by s. 1, Act XIV of 1845. S. 5 was repealed by s. 1, Act XI of 1863, so far as it applies to the North-Western Provinces in Bengal. S. 5 was repealed so far as relates to the provinces subject to the Government of Bengal by s. 1, Act V (B. C.) of 1863. S. 9 was extended in its operation by Act XXI of 1850. S. 11 was repealed by s. 1, Act I of 1846. The whole Reg. except ss. 8 and 9 was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 2, Act VI of 1871. (See Schedule.) S. 1, Act XVI of 1868 (see Schedule) also repealed the whole of this Reg., except so much of s. 8 as provides that the rule contained in s. 15, Reg. IV, 1793, and the corresponding enactment contained in cl. 1, s. 16, Reg. III, 1803, shall be the rule of guidance in all suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, that may arise between persons professing the Hindu and Mahomadan persuasions respectively.
VIII (4 Sections).—*A Regulation for rescinding Regulation XIV*, 1814. (Passed 20th November.)	Ss. 2 and 4 were repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.
1833.	
I (3 Sections).—*A Regulation for vesting in the Sádr Board of Revenue at Allahabad the superintendence of the Customs and Town Duties in the territories to which the Revenue jurisdiction of that Board extends.* (Passed 5th February.)	This Reg. is in force throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts. See Schedule V of Act XV of 1874. The whole Reg. was repealed by s. 2, Act VIII of 1875, so far as relates to the North-Western Provinces, the Panjáb, Oudh and the Central Provinces. (See Extent Clause in s. 1.)
II (5 Sections).—*A Regulation for empowering the Governor-General in Council to abolish the Provincial Courts of Appeal.* (Passed 15th March.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
III (16 Sections).—A Regulation for establishing an office for the registry of imports and exports at the Settlements of Prince of Wales Island, Singapore and Malacca. (*Passed 12th April.*)	S. 12 of this Reg. will cease to be in force in any Port, River &c. to which Act XXII of 1855 is extended. (See s. 2, *idem.*)

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1833.	
IV (2 SECTIONS).—*A Regulation to provide more effectually for the management of Convicts sentenced to labor and employed on the roads of public works under Superintendents or their Assistants appointed by Government, and to enable those officers to maintain good order and discipline among the Convicts and their Guards.* (Passed 3rd May.)	The whole Reg. was repealed by s. 2, Act XXVI of 1870. (See Schedule.)
V (4 SECTIONS).—*A Regulation for forming the jurisdiction of the city of Dacca and the Zillah of Dacca Jelalpore into one District.* (Passed 13th May.)	Ss. 2 and 4 were repealed by Act VIII of 1868 save as provided in s. 1, *idem, q. v.* So much as had not been previously repealed was repealed by s. 9, Act XV of 1874.
VI (4 SECTIONS).—*A Regulation for rescinding part of Regulation XV of 1829, and for enacting other rules in the case of goods imported by sea.* (Passed 3rd June.)	The whole Reg. save in so far as it repeals any prior Reg. &c. or relates to duties leviable on Salt or Opium was repealed by s. 2, Act VI of 1863. So much as had not been previously repealed was repealed by s. 1, Act XVI of 1874, save as therein provided.
VII (6 SECTIONS).—*A Regulation for altering the weight of the new Furruckabad Rupee, and for assimilating it to the legal currency of the Madras and Bombay Presidencies, for adjusting the weight of the Calcutta Sicca Rupee and for fixing a standard unit of weight for India.* (Passed 13th July.)	The whole Reg. was repealed by Act VIII of 1868, save as provided in s. 1, *idem, q. v.*
VIII (2 SECTIONS).—*A Regulation for the occasional appointment of Additional Judges of the Zillah and City Courts.* (Passed 26th August.)	The whole Reg. was repealed by s. 2, Act VI of 1871. (See Schedule.)
IX (25 SECTIONS).—A Regulation to modify certain portions of Regulation VII of 1822, and Regulation IV of 1828: to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations: for enforcing the production of the village accounts: for the more extensive employment of native agency in the Revenue department: and to declare the intent of section 5, Regulation VII, 1822, touching claims to malikana. (*Passed 9th September.*)	Ss. 2 to 15 both inclusive, so far as they relate to the territories under the Government of the Lieutenant-Governor of the North-Western Provinces, were repealed by s. 2, Act XIX of 1873, save as provided in ss. 1 and 2, *idem.* S. 4 was repealed by s. 1, Act XVI of 1874, save as therein provided. Ss. 14 and 15, so far as the same are applicable to the territories under the Government of the Lieutenant-Governor of Bengal, save in so far as they repeal any other Reg. or Act, were repealed by s. 1, Act X of 1859. S. 19 was repealed by s. 2, Act X of 1873. (See Schedule.) This Reg. is in force throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts. (See Schedule V of Act XV of 1874.)

No. of Regulation and number of Sections therein; Title or Description; Date of Passing, &c.	How far, and by what other Regulations or Acts, repealed, amended, or altered.
1833.	
X (3 SECTIONS).—*A Regulation for including Spirituous Liquors of European manufacture in the prohibition contained in Regulation IV,* 1831, *against the Retail Sale of other Spirituous Liquors in the Eastern Settlements.* (Passed 9th September.)	The whole Reg. was repealed by s. 1, Act XIV of 1851.
XI (11 SECTIONS).—*A Regulation for modifying Regulation VII of* 1830 *of the Code of Prince of Wales' Island, Singapore and Malacca, relative to Pawn-brokers' shops at the Settlements of Prince of Wales Island, Singapore and Malacca, and their dependencies.* (Passed 9th September.)	The whole Reg. was repealed by s. 1, Act XL of 1850.
XII (4 SECTIONS).—*A Regulation for modifying certain of the provisions of the existing Regulations regarding the selection, appointment and remuneration of authorized Pleaders.* (Passed 4th November.)	This Reg. was amended by Act XIII of 1838, and repealed by s. 1, Act I of 1846.
XIII (7 SECTIONS).—A Regulation for abolishing the Courts of Díwání Adálat of the Zillahs of Ramghur and Jangal Mahals, and for providing special rules for the superintendence of certain tracts of country at present included in the Zillahs of Ramghur, Jangal Mahals and Midnapore. (*Passed 2nd December.*)	This Reg. was amended as to the officer in whom the duties specified in s. 4 shall be vested by s. 1, Act XX of 1854.
1834.	
I (6 SECTIONS).—*A Regulation for limiting and defining the boundary within which the Calcutta Town Duties are leviable.* (Passed 1st February.)	The whole Reg. was repealed by Act VIII of 1868 save as provided in s. 1, *idem, q. v.*
II (7 SECTIONS).—*A Regulation for abolishing corporal punishment: for substituting a fine in certain cases for a sentence of labor: and for the gradual introduction of a better system of Prison Discipline.* (Passed 17th February.)	Cl. 1, s 2, was modified by s. 1, Act III of 1844. The whole Reg. except s. 7 and save in so far as it repeals any prior Reg. &c. was repealed by Act XVII of 1862, *q. v.* S. 7, so far as it relates to the Bengal Division of the Presidency of Fort William, was repealed by s. 1, Act II (B. C.) of 1864, always saving so far as it repeals or modifies any other Reg. &c. So much as had not been previously repealed was repealed by s. 2, Act XXVI of 1870. (See Schedule.)

END OF THE CHRONOLOGICAL TABLE.

INTRODUCTION.

CHAPTER I.

THE ACQUISITION OF TERRITORIAL SOVEREIGNTY BY THE ENGLISH IN THE PRESIDENCY OF BENGAL.

Grant of the Díwání.

§ 1.—On the 12th August 1765, Sháh Alam, the titular[1] Emperor of Delhi, made a perpetual grant to the East India Company of the Díwání of the three provinces of Bengal, Bahár, and Orissa. The *farmán* or patent runs as follows :—" We have granted them the Díwání of Bengal, Bahár, and Orissa, from the beginning of the Fasl-i-rabíí (spring harvest) of the Bengal year 1172, as a free gift and *altamgha*[2] without the association of any other persons, and with an exemption from the payment of the customs of the Díwání, which used to be paid by the Court. It is requisite that the said Company engage to be security for the sum of twenty-six lákhs[3] of rupees a year, for our royal revenue, which sum has been appointed from the Nawáb Najjam ud Daulah Bahádur, and regularly remit the same to the royal Sarkár (Government); and in this case, as the

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[1] Alí Gohur, who took the title of *Sháh Alam the Second* on being recognized as Emperor by Ahmed Sháh Durání after the battle of Pánipat, was the eldest son of *Alamgír the Second*, who was raised to the throne (A.D. 1754) by Ghází-ud-dín the Commander-in-Chief, after he had deposed and blinded Ahmed Sháh. Alamgír was assassinated under the orders of the same Ghází-ud-dín (November, A.D. 1759) to prevent his combination with Ahmed Sháh Durání, who was then advancing to invade India for the fourth time. Alí Gohur was then absent in Bengal, and Ghází-ud-dín raised to the throne another youth of the royal family, who was never generally acknowledged, as Ghází-ud-dín almost immediately fled from Delhi, before the advance of Sodásheo Bháo and the Marattas, and took refuge in the Játt country. Ahmed Sháh Durání having destroyed the power of the Marattas in the battle of Pánipat (7th January 1761) returned to Kabul without attempting to profit by his victory, and did not afterwards interfere in the affairs of India. His recognition of Alí Gohur as Emperor under the title of Sháh Alam may indeed be regarded as an acknowledgment that the Mogul sovereignty was still in existence; but most historians consider this sovereignty to have terminated with the life of Alamgír II—See *Elphinstone's History of India*, page 665, and *Mill's History of British India*, vol ii, p 478. Mr Mill, speaking of *Sháh Alam the Second*, says, that he "never possessed a sufficient degree of power to consider himself for one moment as master of the throne." He was, in fact, till his death a mere puppet in the hands of whatever power had the ascendancy for the time. His eyes were put out by Ghulám-Kadír in 1788. He was again restored to his nominal throne by Sindia. After the battle of Delhi in September 1803, he put himself under British protection, and from this date the Mogul sovereignty must certainly be held to have finally terminated

[2] "Royal grant," so called from two Turkish words signifying "red" and "seal," such grants having been formerly sealed with a red seal.

[3] A lákh is one hundred thousand. Assuming the rupee to be worth two shillings, twenty-six lákhs of rupees are equivalent to £260,000 The grant was therefore subject to a considerable annual payment by the grantee to the grantor

said Company are obliged to keep up a large army for the protection of the provinces of Bengal, &c. we have granted to them whatsoever may remain out of the revenues of the said provinces, after remitting the sum of twenty-six lákhs of rupees to the royal Sarkár and providing for the expenses of the Nizámat."[1]

Meaning of "The Díwání."

§ 2.—The meaning of the term "*Díwání*" has been often misunderstood.[2] "*Díwán*" means literally "a royal court," "a council of state," "a tribunal of revenue or justice," "a minister," "a chief officer of state;" and, under the Mahomadan Government, it was applied especially to the head financial Minister, whether of the state or of a province, who was charged with the collection of the revenue, and invested with extensive judicial powers in all civil and financial cases. It was the duty of the *Díwán* of a province to remit the revenue when collected to the Imperial Treasury. "*Díwání*" means "the office, jurisdiction, and emoluments of a Díwán;" and the grant of the Díwání was a grant of the right to collect the revenue of Bengal, Bahár, and Orissa, and to exercise judicial powers in all civil and financial causes arising in those provinces.[3] The *farmán*, which granted the Díwání to the East India Company, was however something more than a grant of the right to collect the revenue of the three provinces and to exercise jurisdiction in civil and financial or revenue cases. It was a perpetual grant to the Company of the revenue when collected, subject to the payment of twenty-six lákhs to the Emperor and to defraying the expenses of the Nizámat.

Meaning of "The Nizámat."

§ 3.—In order to understand this latter condition, we must understand what is meant by the *Nizámat*. Under the Mahomadan Government, the *Názim* was the chief officer charged with the administration of Criminal Law and the Police, just as the *Díwán* was charged with the administration of Civil Law and the collection of the revenue. The term "*Nizámat*" denoted "the office, duties of the Názim, the administration of Police and Criminal Law." In the palmy days of the Mogul empire, it was usual to conduct the administration of the more distant *Súbahs* or provinces through a Viceroy or Governor called a *Súbahdár*, who was occasionally a relation of the Emperor, and to whom were entrusted not infrequently both the *Díwání* and the *Nizámat*. As *Díwán*, he collected and remitted the revenue and administered civil justice. As *Náib* or *Nawáb*[4] *Názim*, *i.e.*, Deputy of the Minister for the administration of criminal justice and police, who was near the person of the Emperor, he administered criminal justice and managed the Police of his province. The *Súbahdár*[5] of Bengal, Bahár, and Orissa formerly exercised

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[1] Aitchison's Treaties, vol. i, p. 61.

[2] For example, Lord Mahon (History of England) speaks of "a Díwání or public deed." The *deed* by which the Díwání was granted was called a *farmán*.

[3] See *Wilson's Glossary—Title*, DIWAN. The *Committee of Circuit* in their proceedings of the 20th August 1772 say—"The Díwání may be considered as composed of two branches 1*st*, the collection of the revenue; 2*nd*, the administration of justice in civil cases." See Harington's Analysis, vol. ii, p. 25.

[4] *Nawáb* is the honorific plural of *Náib* which means "a deputy"

[5] The office of Súbahdár was not hereditary, nor even granted for life; but, in the weakness and decline of the Mogul empire, the Súbahdárs became in many instances too powerful to be removed, and a son or other relation being on the spot and grasping the reins of power often succeeded with or without investiture by the Emperor.

these double functions. When the Díwání was granted in perpetuity to the English Company, he still retained the Nizámat, still continued to be the Nawáb Názim, the Deputy of the Emperor's Názim, for the administration of criminal justice and police in the provinces of Bengal, Bahár and Orissa; and it was for the expenses of this *Nizámat* or office of *Názim* that the Company were required to provide out of the revenue of Bengal, Bahár and Orissa, when the Díwání of these three provinces was granted to them by the Emperor's *farmán* on the 12th August 1765.[1]

[1] The *Súbahdár* of Bengal, Bahár and Orissa usually resided at Múrshedabád. When, on the grant of the Díwání to the Company, the Nizámat was still left in the hands of *Nadjam-ud-Daulah*, he was styled with special reference to this office *the Nawáb Názim*, and the same title continued to be given to the members of the family who succeeded him. As the rights of the *Nawáb Názim of Múrshedabád* have been frequently discussed, the following additional facts may be usefully mentioned. In accordance with the condition in the Emperor's *farmán*, that a sufficient allowance should be made out of the revenues of the three provinces to support the expenses of the Nizámat, an agreement was concluded on the 30th September 1765 with the Nawáb Nadjam-ud-Daulah (son of Mír Jaffier, who died in January 1765), by which he was to receive the annual sum of Sicca Rs. 5,386,131 as an adequate allowance for the support of the Nizámat. Of this sum, Rs. 1,778,854 was for the Nawáb Názim's household expenses, servants, &c. and Rs. 3,607,277 for the maintenance of horse, sipáhís, peons, &c. for the support of his dignity (*Aitchison's Treaties*, vol. i, p. 65). *Nadjam-ud-Daulah* died on the 8th May 1766, and his brother *Syeff-ud-Daulah* was elevated by the Company to the vacant office. By an agreement concluded with him on the 19th May 1766, he was to receive the reduced annual sum of Rs. 4,186,131, *viz.* Rs. 1,778,854 for his household, and Rs. 2,407,277 for sipáhís, peons, &c. (*Aitchison's Treaties*, vol. i, p. 67). *Syeff-ud-Daulah* died of small-pox on the 10th March 1770, and his brother *Mobarek-ud-Daulah*, a minor, was made Nawáb Názim. By an agreement concluded with him on the 21st March of the same year, the allowance was still further reduced to Rs. 3,181,991, *viz.* Rs. 1,581,991 for the household, and Rs. 1,600,000 for sipáhís, peons, &c. (*Aitchison's Treaties*, vol. i, p. 69). The Court of Directors in their general letter of the 10th April 1771 directed the whole allowance to be still further reduced to sixteen lákhs during the minority of the Nawáb. No treaties or agreements were concluded after 1770 with any member of the family; but the stipend of sixteen lákhs has ever since continued to be appropriated to the benefit of the Nawáb Názim and the members of the family. In the Dispatch No. 30, dated 17th June 1864, it was intimated that the Secretary of State perceived with satisfaction that the Government of India had no intention of disturbing existing arrangements for the pecuniary provision of the Nawáb Názim and his family, and the maintenance of the titular dignity of His Highness, it being obvious that they could not be interfered with or altered, during good conduct, without a violation of the spirit, at least, of the assurances which had been given to him by the British Government and a departure from the whole tenor of the transactions with him during a long course of years.

Whatever questions may be raised as to the appropriation of the sixteen lákhs hitherto paid to the Nizámat family—and in dealing with these questions, the maxim *cujus est dare ejus est disponere* may well be borne in mind—it is clear that no claim can be founded upon the Emperor's *farmán* or upon the agreements concluded with *Nadjam-ud-Daulah*, *Syeff-ud-Daulah*, and *Mobarçk-ud-Daulah*. None of these agreements contain words of inheritance, and they were clearly concluded with the individuals personally, and were intended to operate during their lifetime only. It was never asserted at the time that the first or any subsequent agreement ought to have had operation after the lifetime of the individual with whom it was made—*contemporanea expositio est optima et fortissima in lege*—and the fact, that the terms of each agreement differed, is conclusive to show that the whole question was regarded as open on the demise of each Nawáb. The office of *Súbahdár*

Military authority conceded by the *Farmán*.

§ 4.—But there is another and a very important point of view in which the Emperor's *farmán* may be considered, and this is with reference to the words "as the said Company are obliged to keep up a large army for the protection of the Provinces of Bengal, &c." These words conceded to the Company authority to undertake the military defence of Bengal, Bahár and Orissa, to exercise military power, and so to assume one of the most important prerogatives of sovereignty. In the agreement of the 30th September 1765, concluded with *Nadjam-ud-Daulah*, provision was made for the maintenance of horse, sipáhís, peons, &c. for the support of his dignity only; but not for military purposes. In the agreement of the 19th May 1766, concluded with *Syeff-ud-Daulah*, he agreed that the protecting the Provinces of Bengal, Bahár and Orissa, and the force sufficient for that purpose he entirely left to the "discretion and good management" of the Company. A clause exactly similar is to be found in the agreement of the 21st March 1770, concluded with *Mobarek-ud-Daulah*. It will thus appear that the grant of the *Díwání* in 1765 was a cession to the East India Company of the military government of the three Provinces of Bengal, Bahár and Orissa, of the right to administer civil justice, and of the complete control of the finances, subject to a payment of 26 lákhs to the Emperor and to providing for the expenses of administering criminal justice, and the maintenance of the police. It was in fact, though not in name, a cession of the sovereignty of these Provinces, seeing that it was a cession of all the essentials of sovereignty.

Sketch of the rise of the power of the East India Company in Bengal.

§ 5.—It will here be convenient to take a brief retrospect of the rise of the power of the East India Company in Bengal, and to see in what position they were to exercise those rights of sovereignty thus conferred upon them in 1765. The first factory of the English in India was established at Surat under the authority of a *farmán* of *Jehangír* dated 11th January 1613. In 1634 the emperor *Sháh Jehán* granted a *farmán* permitting the ships of the Company to enter the Ganges or rather to resort to the port of Piplí at the entrance of the western branch of that river; and in 1642 a factory was accordingly established at Balasore. Ten years afterwards in 1652 Mr. Gabriel Boughton, a surgeon of the Company, having procured the imperial favour by curing

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was not an hereditary office, and it can scarcely be argued that, when shorn of the greater part of its strength, it could acquire a quality which did not belong to it in its palmiest days. The condition in the *farmán* was to provide for the expenses, not of the *Názim*, but of the *Nizámat*, *i.e.*, of the administration of criminal justice and of the police. The mode, in which these expenses should be provided for, was not prescribed; and it cannot be contended that the Company were bound to do otherwise than use their own discretion in a matter thus clearly left to their discretion, or to make an office hereditary which had not been so by the custom of the country. When the complete territorial sovereignty passed into the hands of the English, they had undoubtedly the same right, which the Mogul Emperor formerly had, to provide for the Nizámat, or administration of criminal justice and police, in whatever manner they deemed fit. When this event happened, they made provision for administering criminal justice and for the police of the country otherwise than through a Nawáb Názim. This was done with the consent of the person who was Nawáb Názim at the time, and those who were afterwards permitted to enjoy the titular dignity and the pension allowed them as descendants of a former *Súbahdár* (such a pension being in conformity with the previous custom of the country) never for a moment pretended to have any claim to the authority or to exercise the functions of the Nizámat.

certain members of the emperor's family, obtained permission for unlimited trade in Bengal, free of customs, but subject to an annual payment of Rs. 3,000. *Shujá* the second son of *Sháh Jehán*, having been appointed Súbahdár of Bengal, took up his residence at Rájmahal; and Mr. Boughton, having come to pay his respects to him, was fortunate enough to make another successful cure, in consequence of which he obtained the prince's favour and permission for the English to establish a factory at Húghlí, where the Portuguese had previously erected a well-fortified settlement. *Shujá*, who was favourable to the English, governed Bengal until 1660, when, upon the death of *Sháh Jehan* in 1657, having taken up arms with a view to obtain the throne, and being defeated by Aurangzíb's generals, he fled to Arakán and was there murdered. *Sháista Khán*, maternal uncle of Aurangzíb, was the next *Súbahdár* of Bengal. He treated the English with very much less favour. He exacted a duty of 3½ per cent. on their merchandize, and his officers extorted considerable sums from their factors. A hostile spirit was thus created; and a quarrel between three English sailors and the native police at Húghlí brought on actual hostilities, in consequence of which, on the 20th December 1686, Job Charnock abandoned Húghlí and dropped down the river of the same name to the little village of *Sútanatí (Chuttanutty)*, which afterwards became the site of Calcutta. From *Sútanatí* he was forced to retire to *Injellí* at the mouth of the river Húghlí, and the English factories including those at *Kasimbazár* and *Patna* were taken and plundered. Captain Heath now arrived with two ships from England and, having plundered Balasore and made an unsuccessful attempt upon Chittagong, he took the Company's servants and effects on board and landed them at Madras. Bengal was thus wholly abandoned.

Calcutta founded.

§ 6.—The Emperor Aurangzíb had been greatly exasperated at the hostilities of the English and had at one time given orders to expel them entirely from his dominions; but the loss of their commerce was felt, and the English ships were able to prevent the pilgrimage of pious Mahomadans by sea to Mecca. He was therefore induced to listen to two commissioners who were sent from Bombay, and a reconciliation was effected in consequence of which he directed the *Súbahdár* of Bengal to invite Charnock to return to Bengal. After a promise of compensation from the emperor for the goods that had been plundered, Charnock returned to *Sútanatí* on the 24th August 1690 and laid the foundation of Calcutta.[1] Eight years after, in 1698, permission was obtained from *Azím-us-Sháh*, grandson of *Aurangzíb* and *Súbahdár* of Bengal, Bahár and Orissa to purchase from the *zemindárs* the *talukdárí* right of Calcutta and the adjacent villages of *Sútanatí* and *Gobindpúr*, subject to the annual payment of Rs. 1,195. In the year 1717 the emperor *Farokhsír* out of gratitude at being cured of a disease by Mr. Hamilton, a surgeon of the Company, granted to the English the privilege of free trade, and also permission to purchase the *talukdárí* right of thirty-eight more villages adjacent to the three purchased in 1698.

[1] Barrackpúr is called by the natives *Achanuk* after Job Charnock. Calcutta is derived from *Kali ghát*, *i.e.*, the landing place, place where people bathe, sacred to the goddess *Kali*, which is within the city on the bank of the river Húghlí. *Alinagur* is another name by which Calcutta was formerly known.

This purchase was not however effected, as the then *Súbahdár* of Bengal, *Jâfier Khan* (*Múrshed*[1] *Kúlí Khan*) not being favourably disposed to the English would not allow the *zemindárs* to make the sale. *Jâfier Khan* died in 1725 and was succeeded by his son-in-law *Sujáh-ud-dín*. On his death, his son *Serferaj Khan* took possession of the *Súbahdárí* or vice-royalty, but was killed in battle with *Aliverdí Khan*, who having obtained a *sanad* or grant of the *Súbahdárí* from the Emperor marched with an army to assert his rights. Aliverdí Khan[2] was *Súbahdár* till his death on the 9th April 1756, when he was succeeded by his grandson *Seráj-ud-daulah*, who being exasperated with the English because Mr. Drake the Governor of Calcutta refused to surrender one Kishan Das, son of Raja Raj Bullubh Governor of Dacca, marched to attack Calcutta and captured Fort William on the 21st June 1756. One hundred and forty-six English were taken prisoners and, with the exception of twenty-three, all perished miserably in the Black Hole on the night of that day. Colonel Clive and Admiral Watson, being sent from Madras to retrieve these disasters, recovered Calcutta on the 2nd January 1757.[3] On the 9th February 1757 a treaty was concluded with *Seráj-ud-daulah*, by which he confirmed the privileges of the Company, allowed their goods to pass free of duty by land and water, and permitted them to fortify Calcutta and establish a mint. He also stipulated to allow the *zemindárs* to grant to the Company the villages in the vicinity of Calcutta given by the Emperor's *farmán* "but detained from them by the *Subah*." Hostilities however broke out again immediately, and on the 23rd June of the same year the battle of Plassy was fought, the result of which was that *Mír Jaffier*, *Seraj-ud-daulah's* pay-master and general of the forces, was made *Súbahdár* by the English: and *Seráj-ud-Daulah*, being seized at Rajmahal in his flight, was brought back to Múrshedabád and assassinated by order of Míran, son of Mír Jaffier. By the treaty concluded with Mír Jaffier he agreed to grant to the Company the land within the Maratta ditch and six hundred yards without the ditch;[4] also that the land lying to the south of Calcutta as far as *Kalpí* should be under the *zemindarí* of the Company, who were to pay the revenue "in the same manner with other zemindárs." The revenue of this *zemindarí* was fixed at Rs. 2,22,958;[5] and, as it included twenty-four *parganas* or local divisions, it gave its name to the district around Calcutta which is still known as the district of the *Twenty-four Parganas*.

Tragedy of the Black Hole.

Battle of Plassy.

Twenty-four Parganas acquired.

§ 7.—In 1759 Mahomed Ali Gohur, son of the Emperor *Alamgír* II, assisted by the *Súbahdár* of Oudh, invaded Bahár; but, upon Clive's march to Patna, the Súbahdár

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[1] From whom the city of *Múrshedabád* derived its name.

[2] With his permission, when the Marattas invaded Bengal in 1741, the celebrated *Maratta Ditah* was constructed for the defence of Calcutta.

[3] Some lawyers have based the right of the English to Calcutta on conquest. In 1782 Hyde, J., (Chambers, J., concurring) said—"We say the inhabitants of this town are all British subjects, because this town was conquered by Admiral Watson and Colonel Clive, but that does not extend to subordinate factories."—In the *Goods of Baksh Ali Gaunt*, Morton's Decisions, p. 103.

[4] The *Sanad* for the free tenure of the town of Calcutta, by which the rents of the mauzahs Gobindpúr, Chauringhí, &c. amounting to Rs. 8,836 were "forgiven," will be found at page 25 of vol. i of Aitchison's Treaties.

[5] See the *Sanad*—Aitchison's Treaties, vol i, p. 17.

deserted him and he was forced to throw himself upon Clive's compassion, who sent him five hundred gold mohurs.[1] In the following year, 1760, his father having been assassinated by *Ghazi-ud-din*, he assumed the title of Emperor and again invaded Bahár, but was defeated by Colonel Calliaud on the 22nd February, after which he marched upon Patna. Miran, Jaffíer's son, upon whose vigour his father's administration principally depended, having been killed by lightning in his tent on the 2nd July, the English now determined to depose the feeble *Mír Jaffier* in favour of his son-in-law *Mír Kasim*. In carrying out this arrangement it was stipulated by a treaty concluded with *Mír Kasim* on the 27th September 1760, that the three districts of Bardwan, Midnapore and Chittagong, which yielded about one-third of the entire revenue of Bengal, should be assigned to the Company to meet the charges of the army and provisions for the field. Major Carnac, having again defeated the Emperor's troops early in 1761, made overtures of peace which were gladly accepted, and the Emperor was conducted to Patna, where he invested Mír Kasim with the *súbahdári* of Bengal, Bahár and Orissa on condition of his paying twenty-four lákhs of rupees annual revenue. On this occasion the Emperor offered to the Company the *Díwání* of the three provinces, which was actually granted four years after. Serious disputes having arisen between *Mír Kasim* and the English, war broke out at last. *Mír Kasim* having been defeated, and having murdered the English prisoners who fell into his hands, fled to Oudh; and *Mír Jâfier* was reinstated in the *súbahdári*. By a treaty concluded with him on the 10th July 1763, the cession of Bardwan, Midnapore and Chittagong was confirmed. On the 23rd October of the following year (1764), the Nawáb Vizier of Oudh, who had invaded Bahár, was decisively defeated at the battle of Buxar. *Mír Jâfier* died in January 1765 and was succeeded by his son *Nadjam-ud-Daulah*, who by a treaty dated 25th February 1765 confirmed all previous grants to the Company, and made over to them the military defence of the country, agreeing to maintain such troops only as were immediately necessary for the dignity of his person and government and for the business of the collections throughout the provinces. In less than six months after the date of this treaty, the Emperor granted the Díwání to the Company. The exact position of the English in India at the time of the grant of the Díwání, but before such grant, was then as follows:—(1) A Company incorporated under the authority of the British Government had obtained a free tenure of the site of Calcutta. (2) The same Company had obtained a *zemindari*[2] of the Twenty-four Parganas.

Bardwan, Midnapore, and Chittagong assigned to the Company.

Position of the English at the time of the Grant of the Díwání

[1] A gold mohur is equivalent to sixteen rupees. It was on this occasion that Mír Jaffíer, who had been terribly alarmed at the Prince's advance, granted, out of gratitude to Clive, as a *jagír* or assignment, the quit-rent which the Company had agreed to pay for the zemindari of the Twenty-four Parganas. By a subsequent *Sunad* of the Nawáb, dated 23rd June 1765, and a *farmán* of the Emperor, dated 30th September 1765, this *jagír* was confirmed to Clive, for ten years from the 16th May 1764, after which or at the death of Clive, if it occurred before the expiry of this term, it was to revert to the English Company as an unconditional jagír and perpetual gift.

[2] The word *zemindár* is derived from "*zemin*" = land, and "*dar*" = a holder or possessor. Its actual meaning varied and varies in different parts of India. In some places it meant properly a "landholder." In other places it meant the person who collected the revenue on behalf of the Government. In the former sense it designated in some parts of the country the holder of a small

(3) also a cession from the *Súbahdár* of the revenue of the districts of Bardwan, Midnapore and Chittagong: (4) were entrusted with the military defence of the three provinces of Bengal, Bahár and Orissa, the cost of which was to be defrayed from the revenue of these three districts: and (5) enjoyed peculiar privileges of trade.

§ 8.—After the battle of Buxar and the defeat of *Shujáh-ud-Daulah*, Nawáb of Oudh, the Emperor ceded to the Company Ghazípúr and Benares or the zemindarí of Raja Bulwant Singh (29th December 1764). The Directors having, however, condemned this transaction, these districts and the rest of his territory were in 1765 restored to the Nawáb of Oudh with the exception of Corah and Allahabad, which were left in the Emperor's possession.[1] The Emperor, Sháh Alam, now resided several years at Allahabad; but, being desirous to mount the throne at Delhi, he put himself into the hands of the Marattas, who were gradually recovering from their defeat at Pánipat. On the 25th December 1771, they conducted him into Delhi with great ostensible pomp, but afterwards kept him in their hands as a mere puppet. In 1773 they extorted from him a grant of Corah and Allahabad, but, the Emperor's representative having refused to surrender these districts and having appealed to the English, it was held that the grant to the Marattas was contrary to the Treaty of 1765, by which they were given to the Emperor for the support of his own dignity; that by such grant he had "forfeited his right to the said districts" and that they had "reverted to the Company from whom he received them." They were therefore sold for fifty lákhs of rupees to the Nawáb of Oudh on the 7th September 1773.

Corah and Allahabad.

§ 9.—The Emperor being now in the hands of the Marattas possessed no real power; the payment of the twenty six lákhs of rupees reserved in the grant of the Díwání was stopped; and the Nawáb Vizier was the *de facto* sovereign of Oudh and a considerable portion of territory in northern India. In 1768 a treaty was concluded between the English Company and the *Súbahdár* of Bengal, Bahár and Orissa on the one part, and the Nawáb Shujá-ud-Daulah, Vizier of the Empire, on the other part, to the effect that the latter should restrict his army to 35,000 men. In 1775 Shujá-ud-Daulah died and was succeeded by his son *Asaf-ud-Daulah*, with whom a new treaty[2] was con-

Nawáb Vizier *de facto* Sovereign of a large tract of territory.

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portion of land, generally a share in that belonging to the village community; and the *landholder* might even be the actual cultivator: in other parts it was applied to the holder of a large tract, who collected the revenue from the actual cultivators, levied internal duties and customs upon articles of trade, imposed petty taxes, and even administered civil and criminal justice. In times of disturbance and during the decline of the Mogul empire, the power of these *Zamindárs* varied according to local circumstances and the propinquity of the Emperor or some powerful Viceroy. The different meanings of the word are to be found in the different phases of the history of the country. "*Zemindarí*" means the office of a zemindár, the tract of land held by him, and for which he was liable, whatever was the nature of his holding, to pay revenue to the Government. Land granted free of revenue was termed *lakhiráj*, from *la* = not, and *khiraj* = tribute, revenue.

[1] See Articles 4 and 7 of the Treaty of the 16th August 1765—*Aitchison's Treaties*, vol. ii, pp. 77, 78. The Nawáb of Oudh is usually known as the *Nawáb Vizier*, *Sháh Alam* having conferred the office of Vizier upon him, when he himself assumed the title of Emperor.

[2] It may be observed that the *Súbahdár* of Bengal, Bahár, and Orissa was no party to this treaty. He had been relieved of the performance of the duties of the Nizámat, his political

cluded on the 21st May 1775. It was now stipulated that the payment made for the services of British troops should be raised to Rs. 2,60,000 a month for each brigade, and that "all the districts dependent on the Raja Cheit Singh together with the land and water duties and the sovereignty of the said districts in perpetuity" should be given up to the English Company. The territories so ceded were Sarkar[1] Benares, Sarkar Chumah, Sarkar Ghazipúr, Saktessgar, the districts of Juanpúr, Bíjehpore Bahdore, Malbass Kauss, the Pargana of Sikandapúr, Jeride, Shaay Abad, Tappa, &c. and the mint and Kotwalí of Benares.[2] In 1781, the Nawáb Vizier having got into great pecuniary difficulties about the payment of the large sums required for the English troops, relief was given to him by a new treaty under the terms of which all the troops were to be withdrawn except a single brigade and one additional regiment. Owing however to the weakness of the Nawáb's Government, it was found unsafe to withdraw the troops, and in 1786 a further arrangement was made, by which the Nawáb was to make an annual payment of fifty lákhs in satisfaction of all claims. The pecuniary difficulties of the Nawáb still however continued, owing to his incapability and the mismanagement of his finances.

Cession of the Province of Benares.

§ 10. In 1797 Asaf-ud-Daulah died and was succeeded by *Mirza Ali*, whose illegitimacy having been proved, *Sadat Ali*, the brother of the deceased Nawáb and the eldest surviving son of Shújá-ud-Daulah, became Nawáb Vizier[3] (21st January 1798.) A new treaty was concluded with him on the 21st February 1798, by which it was agreed that the annual subsidy to the English for the military defence of his territories should be increased to seventy-six lákhs and the English forces maintained in the country of Oudh for its defence should never consist of less than ten thousand men. The fort of Allahabad was also placed in the hands of the English, and the new Nawáb engaged to be guided by the advice of the Company's Government in making such reductions as would enable him to meet his liabilities under this treaty. Difficulties however ensued, the subsidy was not regularly paid, and it was at last in 1799 proposed to the Nawáb Vizier that he should cede a certain portion of his territory as a substitute and provision for the money payment. After a display of considerable reluctance on his part, a treaty was at length concluded on the 10th November 1801, by which he ceded to the Honorable the East India Company in perpetual sovereignty those territories in the Doab, which were afterwards by section 2 of Regulation II of 1803 divided into seven zillahs or districts, namely Moradabad, Bareilly, Etawah, Furruckabad, Cawnpore, Allahabad, and Goruckpore. In

Provinces Ceded by the Nawáb Vizier.

importance was gone, and he had now really become a pensioner of the Company. Mr. Harington (Analysis, vol. I, p. 4) puts the change even earlier and dates it from 1765.

[1] *Sarkar*—"the Government," "the State," is sometimes used to designate a sub-division of a *Súbah*, containing several parganas, a province.

[2] This treaty was negotiated under the auspices of Mr. Francis and the other Members of Council appointed under *The Regulating Act* of 1772, who had arrived in Calcutta on the 19th October 1774 Francis had condemned Warren Hastings for letting the Company's troops out to hire, but he himself continued the practice.

[3] Sir John Shore was himself on the spot, and, though threatened with considerable danger by Mirza Ali and his party, carried out the necessary steps for his removal with temper, ability, and firmness.

return for this cession of territory, the East India Company engaged to defend the territories which remained to His Excellency the Vizier against all foreign and domestic enemies and to guarantee to him, his heirs and successors the possession of the territories so remaining together with the exercise of his and their authority within the said dominions.[1] The Nawáb Vizier further engaged to reform his internal administration, "to advise with the British Government and to conform to its counsels in all affairs connected with the ordinary Government of his dominions and with the usual exercise of His Excellency's established authority." A Resident was to be stationed at Lucknow, and through him the advice of the British Government was ordinarily to be given; though on important occasions the Governor-General might make a direct communication in person or by letter.[2] Three members of the Civil Service were appointed to be a Board of Commis-

[1] See the Treaty—*Aitchison's Treaties*, vol. II, p. 121: and the subsequent Memorandum, p. 127, *idem*.

[2] This was a treaty of unequal alliance, involving guarantee, protection, and a right of interference in the internal administration of the Nawáb Vizier's dominions, which thus became what Western International Lawyers would call a *semi-sovereign* State (see Wheaton's Elements of International Law, p. 45). It may be convenient to give here a brief account of subsequent dealings with the family of the Nawáb Vizier of Oudh. In 1812 a treaty was concluded with Nawáb Sadat Ali, which provided for the adjustment of the boundary line between the British territories and Oudh, as the course of the rivers which formed the original boundary changed from time to time. Sadat Ali Khan died on the 11th July 1814 and was succeeded by his son Ghazí-ud-dín Heider, with whom all previous treaties were continued. In 1814 Lord Moira (afterwards Marquis of Hastings) was at Cawnpore in order to be near the scene of the Nipâl war. Differences had arisen about the extent of interference exercised in the internal administration by the Resident; and the Nawáb Vizier, having sought a personal interview with the Governor-General in order to their adjustment, was so gratified with the courtesy with which he was treated by Lord Moira that he offered him a present of a crore (ten millions or one hundred lákhs) of rupees (£1,000,000). The present was of course declined, but Rs. 1,08,50,000 was taken as a loan bearing six per cent. interest, which was to be devoted to the payment of certain stipends guaranteed by the British Government, the principal of these stipends, as they lapsed, being repayable to the Nawáb. A second loan of a similar amount and at similar interest was taken in March 1815 to meet the continued expenses of the Nipál war, at the conclusion of which this amount was paid off by ceding to the Nawáb that portion of the territory conquered from the Gúrkhas, which lies between the river Gograh and the district of Goruckpúr. At the same time (1st May 1816) the Pargana of Nawábgunj in the district of Goruckpúr was given in exchange for the Pargana of Handia lying between the British districts Jaunpúr, Mirzapúr, and Allahabad. In 1819 the Vizier formally renounced his dependence upon the titular Emperor of Delhi, and with the recognition of the British Government assumed the title of King of Oudh. Ghazí-ud-dín Heider died in 1827, and was succeeded by his son Nasír-ud-dín Heider, who died in 1837 and was succeeded by his uncle Mahomed Ali Sháh. The last-mentioned King died in 1842 and was succeeded by his son Amzad Ali Sháh, who was in 1847 succeeded by his son Wajid Ali Sháh. The conditions of the treaty of 1801, which empowered the British Government to interfere in the internal administration, had always proved a source of difficulty, more especially as the Nawáb Vizier of that time or his successors had never effectually carried out the sixth article of that treaty by which His Excellency engaged that he would establish in his dominions "such a system of administration to be carried into effect by his own officers, as shall be conducive to the prosperity of his subjects, and be calculated to secure the lives and property of the inhabitants." As the beneficial results of good administration gradually showed themselves in the neighbouring

sioners for the administration and settlement of the ceded territory; and Henry Wellesley, brother of the Governor-General, was nominated President of the Board and Lieutenant-Governor of the new provinces.

§ 11.—Sevají, the founder of the Maratta power, was born in 1627, and was the grandson of Mallají Bhonslay, a captain of horse in the service of the king of Ahamednagar. Having made himself master of his father's Jagír of Púna, he commenced a sort of guerrilla warfare upon his neighbours and rapidly extended his authority and his territory, until at the age of thirty-five he was in possession of the whole coast of the Concan from Callian to Goa. He then attacked the Mogul dominions; and Shaista Khan, afterwards subahdár of Bengal, was sent to repel him. Notwithstanding the plunder of Surat and Barcelore, he was unable to resist the overwhelming forces which Aurangzíb sent against him, and he submitted and entered into the service of the Emperor. Considering himself insulted by his treatment at Court, he eluded the vigilance that would have detained him, and returned to consolidate his dominions and renew his ravages. On the 6th June 1674 he assumed the *insignia* of royalty. He died on the 5th April 1680 greatly to the satisfaction of Aurangzíb, who then bringing his whole power to bear against the Marattas, wrested from them most of Sevají's conquests, and taking his son Sambají prisoner put him to a cruel death. Saho or Sahají, Sambají's son, was detained in captivity during Aurangzíb's lifetime. After the Emperor's death he obtained his release; and, returning to the Deccan, notwithstanding the opposition of his cousin Sevají and his aunt Tara Bai, recovered his rights through the ability and exertions of Balají Wiswanât his Minister or *Peishwa*, who was originally the hereditary accountant of a village in the Concan. Balají subsequently became the real head of the Marattas, while Sahají settled down to a life of ease at Sattara, of which place his descendants became the Rájás. Balají Wiswanât died in October 1720 and was succeeded by his son Bají Rao, the office of Peishwa now becoming hereditary in his family. He concluded the first treaty with the English in 1739, about a year before his death. It related to commercial matters

Rise of the Maratta Power.

The Peishwa.

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territories subject to British rule, the mal-administration of Oudh and its effects became more conspicuous, and forced themselves on the notice of the Power with whom the above stipulation had been entered into and upon whom therefore devolved the duty of seeing it carried into operation — a duty towards the people of the country, which lay at the very foundation of the principles upon which the treaty of 1801 rested. Repeated admonitions and warnings having proved wholly infructuous, the British Government at last resolved to assume the administration of the country. The King, Wajid Ali Sháh, having refused to sign a new treaty which was proposed to him, the Government of the country was taken over by the British absolutely and for ever in February 1856. A provision of twelve lákhs a year was made for Wajid Ali Sháh, who is allowed to retain the title of King during his lifetime. On his death the title will cease and the stipend will be reduced to a suitable provision for the family of the Ex-King. The annexation of Oudh, as well as other acts of the British Government has formed the subject of severe criticism and censure with persons who have failed to realize the true position of the British power in India. Successor partly by treaty, partly by conquest to the Mogul Emperor and the various dynasties, which struggled in vain amongst themselves for pre-eminence, the British have become emphatically the Paramount Power in India. The duty of such a power, especially under the peculiar circumstances, cannot be measured by, as its whole authority is not derived from, treaties or any form of social or national compact.

chiefly. He was succeeded by his son Balají Rao, usually known as the Nana Saheb with whom the English entered into an agreement in 1755 to unite their forces for the purpose of attacking the pirate Angria or Tulají. This expedition proved completely successful in 1756 under the command of Admiral Watson and Clive, Gheriah the stronghold of the pirate having been taken and plundered. Sahají, before his death which occurred in 1749, executed a deed by which he transferred all power to the Peishwa on condition that the royal title and dignity should be maintained in the house of Sevají. Balají Rao became thus the acknowledged head of the Marattas, who were now at the zenith of their power. That power was however broken at the battle of Pánipat on the 6th January 1761, and Balají, who never recovered the shock of this disastor, died soon after. He was succeeded by his son Madhu Rao, a minor. Raghoba, Balají's brother, acted as regent during the minority, and, after Madhu's death in 1772 and the murder of his brother and successor Narain Rao, usurped the office of Peishwa. He was at first assisted by the English, to whom he offered to cede Bassein, the island of Salsette and other islands on the Bombay coast; but the Supreme Government at Calcutta disapproved of the arrangement, and on the 1st March 1776, through their special agent Colonel Upton, concluded the treaty of Púrandah,[1] which acknowledged the party who opposed Raghoba, and wished to set up as Peishwa Madhu Rao Naráin, the posthumous son of the murdered Narain Rao. The terms of this treaty having been evaded, the English resolved to assist Raghoba and made a new treaty with him on the 24th November 1778. The English troops were defeated and the disgraceful convention of Wargaum was the result. This Company's Government would not admit the validity of this convention. Further hostilities and negociations ensued; and at last the treaty of Salbye was concluded, and ratified at Fort William on the 6th June 1782. This treaty provided amongst other things that the territories conquered from the Peishwa after the treaty of Púrandah should be restored, and that Salsette and three other islands as well as the city of Broach should remain in the hands of the English. Madhu Rao died on the 27th October 1795; and, after much dispute as to the succession, Bají Rao the son of Raghoba became Peishwa, chiefly through the support of Daulat Rao Sindia.

Treaty of Salbye.

§ 12.—War soon after broke out between Sindia and Holkar[2] in 1801, which resulted in the defeat of the combined forces of Sindia and the Peishwa at the battle of Púna

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[1] This treaty ceded the city and Pargana of Broach and territory in the vicinity yielding three lákhs. The 13th article declared that the *chaut* of Bengal and its dependencies had been for time out of mind part of the Jagír of Bhonslay and could not therefore be withdrawn; but that, if he or his descendants created disturbances by claiming it, the Marattas would not assist him.

[2] It is not within the scope, and it would scarcely be possible within the limits, of this Work to give even a brief sketch, that would be intelligible, of the rise of *all* those powers which the English found established in India in a state of more or less complete independence. The reader is supposed to be acquainted with the general history of the country as given in Mill's or Thornton's volumes. The student will also find Mr. Marshman's more recent and less expensive work a most useful companion, containing all that is necessary to give an exact and succinct view of the rise and fall of the various powers which from time to time existed in India. The following Note may however be useful here. The Maratta Power, in its ultimate development, was rather a confederacy

on the 25th October 1802. Bají Rao, forced to fly from Púna to escape falling into the hands of Holkar, now made an urgent application to the British for assistance. The result of this application was the celebrated treaty of Bassein, dated the 31st December 1802, by which it was stipulated that the British Government should never permit any power or state whatever to commit with impunity any act of unprovoked

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of powerful chiefs than a State under an individual head. The process of development afforded considerable opportunity for the exertion of personal ability, which was sure to raise its possessor into a position of importance. Thus while the Peishwa was regarded as the head of the confederacy, Sindia, Holkar and the Guikwar acquired territory and an independent position of their own.

Sindia—Gwalior.

Ranají, the founder of the House of Sindia, though belonging to a respectable family near Sattara, began life as slipper-bearer to the Peishwa Bají Rao, through whose favour he rose to be a commander of troops, and acquired some possessions in Malwa, where he died. His second son, Mahají Sindia, succeeded him. He was present amongst the other Maratta chiefs at the battle of Pánipat, where he was lamed for life. He afterwards, however, organized a considerable army trained under French officers, and took a leading position in Maratta politics. He was made the mutual guarantee of the Peishwa and the British for carrying out the terms of the Treaty of Salbye, by which his independence was first acknowledged by the British. Mahají Sindia died in 1794, and was succeeded by his grand-nephew, Daulat Rao Sindia, who became one of the most formidable antagonists of the British Power. His attempts to defeat the Treaty of Bassein brought on war; but his power was completely broken by the battles of Delhi (11th September 1803), Assaye (23rd September 1803), and Laswari (1st November 1803); and he had no alternative left but to submit to the severe terms imposed by Lord Wellesley, and which were incorporated in the Treaty of Sirjí Anjengaum, by which he ceded to the British a large portion of his territory, including all that in the Doab. In 1805 Gwalior and Gohud were ceded to him, and the river Chumbul was made the northern boundary of his territories. Daulat Rao Sindia died in March 1827, leaving no son. A youth, named Jankají Rao Sindia, was adopted to succeed him. He died on the 7th February 1843, also without leaving any son or successor. His widow, however, adopted a son, usually called Babaji Sindia, who on his accession assumed the title of Alijah Jyají Rao Sindia. At the time of his adoption, he was about eight years of age, and the disputes which ensued as to who should exercise the powers of regent during his minority led to disturbances which resulted in the withdrawal of the British representative from Gwalior, and finally in war. After the defeat of the Gwalior troops at Maharajpore and Punniar, the treaty of the 13th January 1844 was concluded, by which territory yielding eighteen lákhs was ceded for the support of the Contingent Force under British officers stationed in Sindia's territories for their protection; and it was stipulated that Sindia's troops should not in future exceed nine thousand men, with twelve field guns and twenty other guns. This Contingent Force mutinied in June 1857. The Maharajah Sindia, though deserted by his troops on the approach of the mutineers under Tantia Topí in June 1858, maintained the cause of the English, and was restored to his palace by Sir Hugh Rose's force. For his fidelity in the mutiny he received a *sanad*, dated the 11th March 1862, confirming the possession of the Gwalior State to his heirs lineally descended or adopted; and he was allowed to increase his army by 2,000 men, and his artillery by four guns. Finally, a new treaty was concluded on the 12th December 1860, by which the relations of the two contracting powers were placed upon a clearly defined basis, and certain exchanges of territory were effected in order to make the dominions of each more compact.

Holkar—Indore.

The founder of the House of Holkar was Mulhar Rao, a Dhúngar, or shepherd, on the Níra, south of Púna, who also rose to importance under Bají Rao. He was present at the battle of Pánipat, and was suspected of having made too early a retreat. He died in 1767, and was succeeded by his grandson Mallí Rao, who died insane a few months after. On this Aliá Bai, Mallí Rao's mother, ruled the Indore State, making Túkají Holkar her commander-in-chief. Túkají's illegitimate

Treaty of Bassein.

hostility or aggression against the rights and territories of the Peishwa, but should at all times maintain and defend the same; and that the Honorable East India Company should furnish a permanent subsidiary force of not less than six thousand regular native infantry, with the usual proportion of field pieces and European artillerymen "with a view to fulfil this treaty of general defence and protection." For the payment of the expense of

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son, Jeswant Rao, next became the head of the House, and was strong enough to defeat the combined forces of Sindia and the Peishwa in the battle of Púna in 1802. After the treaty of Sirjí Anjengaum with Sindia, Holkar provoked hostilities with the British, was defeated, pursued by Lord Lake across the Sutlej, and finally forced to sign a treaty on the banks of the Beas on the 24th December 1805, by which he ceded a large portion of territory and gave up all claims on the Province of Bundlekund. Jeswant Rao died in 1811, leaving a minor son Mulhar Rao. The disturbance which took place during his minority led to war. The Indore troops were defeated at Mehidpore, and on the 6th January 1818 was concluded the treaty of Mundisore, by which Holkar ceded to the British Government all claims of every description against the Rajpút princes of Oudeypúr, Jeypúr, Jodhpúr, Kotah, Bundí, and Keraulí—ceded all the territory within and north of the Bundí Hills, also all territory within and south of the Sautpúra Hills, and also his possessions in Khandeish; and agreed that a British field force should be stationed in his territories to preserve internal tranquillity and protect them from foreign enemies. His independence of the Peishwa was guaranteed by this treaty. Mulhar Rao Holkar died without issue in 1833. His mother and widow adopted a child of four years of age to succeed him, who was styled Martund Rao Holkar. He was opposed by Hurri Rao Holkar, a cousin of Mulhar Rao, who having the popular voice on his side, and being supported by the British, ultimately triumphed. Hurri Rao died in 1843, having in 1841 adopted Khundí Rao, then a boy of thirteen years of age, who was acknowledged by the British, but died the following year. The appointment of a successor was declared to rest with the British Government, and the present Chief Túkají Rao Holkar was appointed.

The Guikwar —Baroda.

Khundí Rao Dábárí was the Senapatí, or commander-in-chief, of Sahají, who on his recomendation appointed Damaji Guikwar his second in command or *Sena Khas Kheyl.* Khundí Rao had followed the predatory habits of the Marattas in Guzerat, which came to be regarded as belonging to his family. He was succeeded by his son Trimbuk Rao Dábárí, who was succeeded by his infant son Jeswant Rao. Damaji Guikwar was succeeded in his office by his nephew Pilájí Guikwar, who was succeeded by his son Damají Guikwar. Jeswant Rao not having sufficient vigour to hold his position, the Guikwar family took the place of the Dábáris, and Damají Guikwar became the head of the State. On his death the succession was disputed between his sons Syají, Gobind Rao, Manají, and Futteh Singh. After a time Futteh Singh was acknowledged as *Sena Khas Kheyl.* He died in December 1789, and Gobind Rao ultimately succeeded. He died in 1800, and, his eldest son and successor Anand Rao being of weak intellect, his illegitimate half-brother Kanají Rao became the real ruler. Kanají was deposed by a party headed by Raojí Appají, who being hard pressed by the opposite side appealed to the British Government for protection. A subsidiary force was accordingly sent to his assistance, and a cession of territory equal to a monthly income of Rs. 65,000 was made to pay the expense of maintaining it. The arrangements made on this occasion were embodied in a formal treaty on the 29th July 1802, the fifth article of which declared that "there shall be true friendship and good understanding between the Honorable English East India Company and the State of Anand Rao Guikwar, in pursuance of which the Company will grant the said Chief its countenance and protection in all his public concerns, *according to justice and as may appear to be for the good of the country, respecting which he is also to listen to advice.*" In the Malsa Kaunt in the Guikwar's own handwriting occurs the passage "*or even should I myself, or my successors commit anything improper or unjust, the English Government shall interfere and see that it is settled according to equity and reason.*" This treaty was recognized by the fourteenth

this force, the Peishwa assigned and ceded in perpetuity certain territories detailed in a schedule annexed to the treaty, yielding an annual revenue of twenty-six lákhs of rupees. By a Supplementary Treaty dated the 16th December 1803, part of the territory so ceded was exchanged for territory in the province of Bundlekund, yielding an annual revenue of Rs. 36,16,000, to be taken "from those quarters of the province most contiguous to the British possessions, and in every respect most convenient for the British Government.[1] The territory selected and ceded in full sovereignty under this Supplemental Treaty was formed into the British *Zillah* or District of Bundlekund (see Section 4, Regulation IX of 1804, and Section 3, Regulation VIII of 1805). The territories ceded nearly at the same time by Daulat Rao Sindia under the provisions of the treaty of Sirjí Anjengaum (30th December 1803), and which are designated in the Bengal Regulations as "*the Conquered Provinces situated within the Doab and on the right bank of the river Jumna*" were formed into the British Zillahs or Districts of Pánipat,[2] Allyghur, northern division of Saharanpúr, southern division of Saharanpúr, and Agra (see Section 3, Regulation IX of 1804, and Section 3, Regulation VIII of 1805). The territories ceded by the Nawáb Vizier and by the Peishwa,[3] and those taken by right of conquest from Daulat Rao Sindia, are generally denominated in the Bengal Regulations "*The Ceded and Conquered Provinces.*" They were subsequently, with some additions, formed into the Lieutenant-Governorship of the North-Western Provinces.[4]

Supplementary Treaty.

Bundlekund.

Conquered Provinces.

What is meant by "The Ceded and Conquered Provinces."

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article of the treaty of Bassein. Anand Rao died in October 1819, and was succeeded by his brother Syají Rao, who died in December 1847, leaving three sons, Gunpat Rao, Khundí Rao, and Mulhar Rao. Gunpat Rao was ruler of the Baroda State from his father's death until his own in November 1856. He was succeeded by his brother Khundí Rao, who was succeeded by the third brother Mulhar Rao, whose recent trial and deposition created considerable excitement in India. He has been succeeded by a member of the Khandesh branch of the family, raised to the *gadí* by permission of the British Government.

[1] The first Peishwa acquired territory in Bundlekund by being adopted as the son of Chattersal, Rájá of Bundlekund.

[2] Zillah Pánipat was the territory adjacent to the city of Delhi, which, with the city, were assigned to the Emperor Shah Alam for his maintenance.

[3] It may be convenient to notice here the end of the dynasty of the Peishwa. Bají Rao broke out into hostilities in 1817 by attacking and plundering the British Residency of Púna. His troops were defeated at the battles of Kirkí, Korygaum and Ashtí; and he was forced to throw himself on the mercy of the British, and to accept the terms offered him on the 1st June 1818, which were that he should resign for himself and his successors all right, title and claim over the Government of Púna or to any sovereign power whatever, and accept a pension from the British Government A pension of Rs. 8,00,000 a year was allowed him, and he was settled at Bithúr, near Cawnpore. He died on the 28th January 1851, bequeathing what property he possessed to his adopted son Dhúndhú Punt Nana, to whom the Jagír of Bithúr was granted for life by the British Government. Bají Rao's pension was not continued to his family. Dhúndhú Punt was the infamous Nana Saheb of the Mutiny.

[4] By the 3 and 4 Will. IV, Cap. 85, S. 38 (1833), it was enacted that the territories subject to the Government of the Presidency of Fort William in Bengal should be divided into two distinct Presidencies, to be styled the *Presidency of Fort William in Bengal* and the *Presidency of Agra.* These provisions were not, however, carried into effect, and they were suspended by the 5 and 6 Will. IV, Cap. 52 (1835), which enacted that, during their suspension, the Governor-General in Council

Bhonslay Family.

§ 13.—The Bhonslay family, who ruled Berar with its capital Nagpúr, were another branch of the great Maratta confederacy. The founder of the house is said to have been Parsají, a private horseman, who rose to power under Sahají, and was entrusted with the collection in Berar of the *chauth*, or one-fourth part of the revenue, exacted by the Marattas as the price of forbearing to ravage the country. He was succeeded by his son Ragojí, who extended his authority from the Nerbudda to the Godavery, and from the Adjuntah Hills to the sea. Having terrified the Peishwa by a march towards Púna, he was bought off by a Jagír of the *chauth* of Bengal and Báhár. Ragají died in 1755, and was succeeded by his eldest son Janají, who died without issue in 1772, having adopted his nephew Ragají, a minor, as his successor. Disputes ensued, and Sahají, Janají's brother, seized and held the government until 1775, when he was killed by Madají the father of the minor Ragají. Madají, as regent for the minor, exercised the power of the State until his death in 1788, upon which Ragají, then twenty-eight years of age, succeeded. He refused the overtures of the English to enter into an alliance for the purpose of reducing the rising power of Sindia; and finally, after the treaty of Bassein, joined Sindia in the war against the English, and shared Sindia's defeat. Reduced to extremities by the loss of the battle of Argaum, and the capture of the fort of Gawilgur, Ragají sued for peace, and on the 17th December 1803 signed the treaty of Deogaum, the terms of which were negotiated by Mr. Mountstuart Elphinstone. By this treaty the Province of Cuttack, including the port and district of Balasore, and all the territory west of the river Wurdah and south of the Nernulla and Gawilgur Hills were ceded to the Honorable Company in perpetual sovereignty. Ragají died in 1816, and was succeeded by his son Parsají, under the regency of Appa Saheb his cousin, by whom he was murdered in 1817. Appa Saheb now became the head of the Nagpúr State, and joining the Peishwa commenced hostilities by an attack on the Residency on the 26th November 1817. He was, however, repulsed, and, on the 6th January 1818, was compelled to sign a provisional agreement, ceding territory for the support of a British Contingent Force, and engaging to conduct the government according to the advice of the Resident. He had scarcely signed this agreement when he commenced fresh intrigues, was in consequence arrested, made his escape, and, after an ineffectual attempt to recover Nagpúr, died at Jodhpúr in 1840. After his flight, Ragají's daughter's son, who also took the name of Ragají, was made Raja of Nagpúr on the 26th June 1818, the Resident managing the state during his minority. On his coming of age in 1826, a new treaty was concluded, by

Berar or Nagpore.

Treaty of Deogaum. Cession of Cuttack.

might appoint a Lieutenant-Governor of the North-Western Provinces, and from time to time declare and limit the extent of the territories to be placed under, and the extent of the authority to be exercised by, such Lieutenant-Governor. A Lieutenant-Governor was appointed under these provisions, which were continued by the 16 and 17 Vict., Cap. 95, S. 15 (1853). The 16th section of this last mentioned Statute authorized the appointment of a Lieutenant-Governor of such part of the territories under the Presidency of Fort William in Bengal, as for the time being might not be under the Lieutenant-Governor of the North-Western Provinces. The Lieutenant-Governor of Bengal is appointed under the authority conferred by this section. Under the 3 and 4 Will. IV, Cap. 85, S. 69, the Governor-General in Council had been authorized, as often as the exigencies of the public service required, to appoint a *Deputy Governor* of the Presidency of Fort William in Bengal, *i.e.* of the Presidency as constituted by the 38th section above referred to.

which, admitting that he succeeded by the favour of the British Government, he agreed not to enter into negotiations with any other State without consulting the British Government; he ceded in perpetuity, for the support of the British subsidiary force, Mundilla, Jubbulpúr, Seonì, Chauragur, Rewa, Baitúl, Mullagí, Sambhalpúr and Patna with its dependencies; and bound himself to adopt such regulations and ordinances as should be suggested by the British Government, through its representative, for ensuring order, economy and integrity in every department of the government. Ragají died on the 11th December 1853 without issue or male relations, and without having adopted a son. The succession in the Bhonslay family was hereditary in the male line to the exclusion of females. The State had been forfeited in 1818 by the hostility of Appa Saheb, and had been declared to belong to the British Government by right of conquest. The grant to Ragají was made out of grace and favour: and, on the death of the donee without heirs, the territory lapsed to the donor, and being incorporated with the British dominions, was formed into the Chief Commissionership of the Central Provinces.

The Central Provinces.

§ 14.—The acquisition of territorial sovereignty in India by the Company has been always held to have been made on behalf of, and in trust for, the Crown.[1] At what precise time the Company exchanged the character of subjects for that of sovereign, and obtained for the Crown the rights of sovereignty, is by no means clear. For a long time after the first acquisition, no such rights were claimed, nor any acts of sovereignty exercised.[2] But though the precise date of the acquisition of sovereignty cannot be exactly

Date of Acquisition of Sovereignty uncertain.

[1] This proposition was advanced on the occasion of every discussion as to the renewal of the Company's privileges. The Statute 53, Geo. III., Cap. 155, S. 95, declared the *undoubted sovereignty* of the Crown over the territorial acquisitions of the East India Company. The 16 and 17 Vict., Cap. 95, S. 1, provided that the territories then in the possession and under the government of the Company should continue under such government *in trust for* Her Majesty, her heirs and successors, until Parliament should otherwise provide. As to the principle that a subject cannot in his own right acquire foreign territory, and that the sovereignty thereof when acquired vests in the Crown, see *Campbell* v. *Hall*, 20 State Trials, 323; *The Foltina*, 1 Dods, 451; and the remarks of Lord Brougham in *The Mayor of Lyons* v. *The East India Company*, 1 Moo. Ind. Ap., 274.

[2] Per Lord Brougham in *The Mayor of Lyons* v. *The East India Company* (1836), 1 Moo. Ind. Ap., 274. In the same case the earlier position of the English in India is thus described "Enough has been said to show that the settlement of the Company in Bengal was effected by leave of *a regularly established Government, in possession of the country, invested with the rights of sovereignty and exercising its powers;* that, by permission of that Government, Calcutta was founded and the factory fortified in a district purchased from the owners of the soil by permission of that Government, and held under it by the Company, as subjects owing obedience, as tenants rendering rent, and even as officers exercising by delegation a part of its administrative authority." In *The Advocate General of Bengal* v. *Rani Surnamayi Dasi* Lord Kingsdown said:—"The first settlement made in India was a settlement made by a few foreigners for the purpose of trade in a very populous and highly civilized country under the government of a powerful Mahomadan ruler, with whose sovereignty the English Crown never attempted nor pretended to interfere for some centuries afterwards. If the settlement had been made in a Christian Country of Europe, the settlers would have become subject to the laws of the country in which they settled." Adverting to the fact that this did not happen, but that they retained their own laws for their own government within the factories which they were permitted by the ruling powers to establish in India,

fixed—doubtless because it was effected by a gradual change, not by any single occurrence happening on a particular date—there can be no doubt that at the beginning of 1806 the sovereignty of the Bengal Presidency had been acquired; and the British power had become paramount in India. The Emperor of Delhi, deprived of sight by a

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Lord Kingsdown further observed, that "this was not on the ground of general international law, or because the Crown of England or the Laws of England had any proper authority in India, but upon the principles explained by Lord Stowell in a very celebrated and beautiful passage of his judgment in the case of *The Indian Chief* (3 Rob. Adm. Rep. 28)—"In the East, from the oldest times," said Lord Stowell in the passage here referred to, "an immiscible character has been kept up; foreigners are not admitted into the general body and among the society of the nation; they continue strangers and sojourners, as all their fathers were—*Doris amara suam non intermiscuit undam*—not acquiring any national character under the general sovereignty of the country, and not trading under any recognized authority of their own original country, they have been held to derive their present character from that of the association or factory under whose protection they live and carry on their trade."—"The laws and usages of eastern countries where Christianity does not prevail," continued Lord Kingsdown in the judgment just quoted from, "are so at variance with all the principles, feelings, and habits of European Christians that they have usually been allowed, by the indulgence or weakness of the potentates of those countries, to retain the use of their own laws; and their factories have for many purposes been treated as part of the territory of the sovereign from whose dominions they come." Before the acquisition of *territorial sovereignty* carrying with it the right to legislate for all classes of subjects, the position of British traders and residents in India was then of this nature—they were aliens living in a foreign country which had a regular government of its own. Under similar circumstances in the West, according to western international law as accepted by Christian nations, they would have been subject to the municipal law of the country in which they traded or resided temporarily or permanently. This rule of western international law was, however, tacitly acknowledged by both parties, (as evidenced by their conduct) not to be applicable in the East to the case of Christians trading or residing in a non-Christian country. This was due on the one hand to the unwillingness of the strangers to subject themselves to rules wholly foreign to their ideas and unsuited to their habits; on the other hand, to the absence of any desire on the part of the governing powers to impose upon foreigners of another creed the peculiar laws of the country. In these laws the secular and the religious element were so closely intermingled, that it would have been difficult if not impossible to apply them to the regulation of the mundane affairs of strangers without at the same time admitting them to a fellowship and an intimacy in religious things, which according to their ideas could never be allowed to those who were aliens not only in the temporal state but also in that great commonwealth which they believed to exist for them alone beyond the limits of time and the confines of the visible world. As rules of international law derive their binding force not from the authority of any paramount legislative power, but from the voluntary consent of nations, it is reasonable to say that the rule thus adopted in the East with the mutual concurrence of those concerned, had for them as much binding force and ultimate effect, as the dissimilar rule, to the control of which the Christian nations of the West have voluntarily subjected themselves. It follows that British subjects resident within their own factories were governed by their own laws so far as the sovereign authority of their own country determined that they should be governed thereby, and this at a time when the British nation were not possessed of territorial sovereignty in India. Sovereignty carries with it the right of legislation. This right was exercised without challenge over the native inhabitants of Bengal, Bahar, and Orissa, from 1773 (see 13 Geo. III. Cap. 63, S. 36; 21 Geo. III, Cap. 70, S. 23; and 37 Geo. III, Cap. 142, S. 8). It may be contended that the sovereignty over these provinces dates from that year.

ruthless marauder (Gholam Kadir, 1788), and then detained for many years a helpless captive in the hands of the Marattas, had gladly thrown himself on the protection of the British, when he was released by Lord Lake after the battle of Delhi[1] (15th September 1803). The Nawáb Vizier of Oudh had, by the treaty of the 10th November 1801, ceded to the Company a large portion of his territory in perpetual sovereignty, and had agreed to govern the rest under the advice and in conformity with the counsel of the British Government. The treaty of Bassein, concluded on the 31st December 1802 with the Peishwa, together with the Supplementary Treaty of the 16th December 1803, had acknowledged the supremacy of the British Power and recognized a similar treaty concluded with the Guikwar on the 29th July 1802. The treaties of Deogaum with the Rájá of Berar (17th December 1803), of Sirjí Anjengaum with Sindia (30th December 1803), and of the banks of the Beas with Holkar (14th December 1805) had been dictated by the authority of conquest. Seringapatam and with it the power of Tippu Sultan had fallen in Southern India. Of all the States that had from time to time enjoyed a brief superiority, none any longer ventured to contest the supremacy with the British Power, which had by cession and conquest acquired a large territory, and by its strength and the superiority of its arms had raised itself to the position of the Paramount Power in India.[2]

But Sovereignty certainly acquired before 1806.

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[1] It has been mentioned in a previous note that the twenty-six lakhs reserved in the grant of the Díwání were withdrawn when he put himself in the hands of the Marattas. This was done by the authority of the Directors (see their letter of 11th November 1768). After the battle of Delhi, he was allowed a pension of Rs. 60,000, afterwards increased to Rs 100,000 a month. Sháh Alam died in 1806, and was succeeded by Akbar Shah, who died in 1837, and was succeeded by Bahadúr Shah, who joined the mutineers in 1857, and was in consequence banished to Rangoon.

[2] General Wellesley (afterwards Duke of Wellington) said that no permanent system of policy could be adopted to preserve the weak against the strong, and to keep the princes for any length of time in their relative situations and the whole body in peace, without the establishment of one power, which by the superiority of its strength, and its military system and resources, should obtain a preponderating influence for the protection of all. He and his brother Lord Wellesley made the Company this paramount power. In treating with Runjít Singh in 1808, Lord Minto told him that the British had succeeded to the power and rights of the Marattas in the north of Hindustan, and therefore held themselves bound to protect the Sikh States of Sirhind. Runjít Singh admitted the argument, and signed the treaty of Amritsir on the 25th April 1809, by which he agreed to respect the rights of the chiefs south of the Sutlege. In the same year the Rajpút princes of Oodeypúr, Kotah, Jeypúr and Jodhpúr, when applying for protection, represented that there had always been in India some supreme power to which the weak looked for protection against the ambition and rapacity of the strong, that the Company had succeeded to this position, and were bound to fulfil its duties. Sir John Malcolm in his Report on Malwa describes the result of the measures adopted for dealing with the chiefs to be the mutual surrender of the supremacy over the petty States and Chiefs to the British Government. The *Times* in a recent article on the Guikwar's trial correctly remarks:—"The Paramount Power in India, as it is vested in the Queen, and exercised by her Viceroy, does not derive its force and essence from legislation, or from treaties, or from any form of social or national compact. It rests ultimately on the right of the stronger, the indisputable claim of the conqueror to enjoy his conquests undisturbed, and to insist upon the preservation of peace and decency among his weaker neighbours. This is the principle upon which we have acted, and which India has fully recognized during the political vicissitudes of the last hundred years."

§ 15.—This Chapter may perhaps be usefully concluded with the following table of the years in which some other territories connected with the Presidency of Bengal were acquired :—

Assam was conquered from the Burmese in 1825. Upper Assam was granted to Rájá Púrunder Singh in 1833; but was again resumed, as he was unable to fulfil his engagements.

Arakan and the Tenasserim Provinces were ceded in 1826.

Cachar, except the Hilly part, was annexed in 1830. The Hilly part was annexed in 1853.

The Cossia (Kásia) and Jyntia Hills territory was confiscated and annexed in 1835.

Darjíling was ceded by the Rájá of Sikkim in 1835.

By the treaty of Lahore, concluded on the 9th March 1846, after the battle of Sobraun, the territory east of the Beas and the hill country between the Beas and the Indus, including Cashmere and Hazara, were left in the possession of the English.

On the 29th March 1849, Mahárája Dhulíp Singh resigned for himself, his heirs and successors all right, title, and claim to the sovereignty of the Panjáb or to any sovereign power whatever; and accepted a pension from the British Government. On this occasion the gem called the "Koh-i-núr" passed into the possession of the Queen of England.

The Province of Pegu was annexed by proclamation in 1852, after the capture of Rangoon.

CHAPTER II.

THE TENURE OF LAND IN THE BENGAL PRESIDENCY.

§ 16.—The Tenure of Land in India is a subject which has generally been supposed to be one of considerable difficulty. It has been on more than one occasion the source of earnest discussion, conducted with a certain degree of asperity by the holders of different and sometimes contrary opinions, each of whom produced probable arguments in support of the correctness of his particular views. Much of this difference of opinion and much of the difficulty which has surrounded the whole question may perhaps be traced to this fact, that sufficient account has not been taken of the diverse circumstances of different parts of the country. Institutions, which in some places were originally complete in all their parts, and the subsequent development of which was perfect, had in other places an incomplete existence originally, or were afterwards but imperfectly developed. Their growth was impaired, or even wholly stopped, and this at different stages in different localities. Here, the plant was stunted and dwarfed; there, wholly rooted out by circumstances of external violence connected with those waves of invasion and conquest which swept with varying violence over the country, sometimes extending their influence directly into every remote channel, at other times producing indirect results by forcing before them the remnant of similar waves that had preceded them. When these disturbing elements had passed away; and, amid the peace of British rule, what remained of former institutions came to be examined, it is not surprising that the more or less imperfect specimens, which were found, suggested various ideas as to the nature of the single whole, which was the prototype of them all.[1]

Difficulty of the subject.

§ 17.—According to the picture of Hindu society presented by the Code of Manú, drawn up probably in the ninth century before Christ, the government was vested in an absolute monarch acting under the counsel of Bramins. His revenue consisted of a share of all agricultural produce, varying according to the soil and the labour necessary to cultivate it; of taxes on commerce, petty traders and shop-keepers; and of a forced service of a day in each month by handicraftsmen. The share of the produce was one-twelfth, one-eighth, one-sixth, according to circumstances, and might, in cases of emergency, be raised to one-fourth. The Code does not distinctly lay down to

State of things in the time of Manú.

[1] Mr. Elphinstone remarks:—"Many of the disputes about the property in the soil have been occasioned by applying to all parts of the country facts which are only true of particular tracts; and by including in conclusions drawn from one sort of tenure other tenures totally dissimilar in their nature."—*History of India*, p. 73.

whom the absolute property in the soil belonged. It has been argued that it belonged to the King, because he is called the "lord paramount of the soil." The cultivator's proprietary right has, on the other hand, been deduced from the text—"land is the property of him who cut away the wood;" or, in the words of the commentator, "who tilled and cleared it." It has been also said with considerable force that as the King's share was limited to one-sixth or at most one-fourth, there must have been another proprietor for the remaining five-sixths or three-fourths, who had obviously the greater interest of the two in the whole property shared.[1] The internal administration was to be conducted by a chain of civil officers consisting of lords of single townships or villages, lords of 10 towns, lords of 100 towns,[2] and lords of 1,000 towns. It was their duty to collect the revenue, and they were remunerated by small fees in kind or by a portion of the King's share of the produce.

The Village Community.

§ 18.—In later times, and especially after the Mahomadan conquest, many of the links of the system which connected the township or Village Community with the governing power became wanting; and other modes of connection were substituted, as the policy or necessity of rulers dictated. But whatever were the means of connection, the township or Village Community possessed an inherent vitality[3] in itself, which preserved it amid the revolutions of power and the changes of dynasties. The Village Community was a little republic having its own territory and its own municipal government under a Headman, formerly the King's agent, and removable at his pleasure, but whose office afterwards became hereditary[4] according to the tendency of all Hindú institutions. He settled with government the revenue to be paid for the year, and apportioned the amount amongst the villagers. For the payment to government he was held personally responsible, and was punished in cases of default. The territory was the common property of the original inhabitants, the members of the original Patriarchal Family.[5] In some villages the cultivated lands only were divided, periodical interchanges of the portions being occasionally usual,[6] or the division being once for all final and complete. In both cases, however, the waste land remained common for pasturage, until an increased population necessitated an extension of cultivation. In other villages the division included the waste[7] as well as the cultivated land. A compact portion of land was not given to each individual: but a share of each description of soil, suitable for the production of each different crop, was assigned to every member

Its early existence.

[1] *Elphinstone's History of India*, p. 21.

[2] The lordship of 100 towns corresponded to the *Pargana* which still generally exists. Traces of the other divisions are still to be found especially, in the Dekkan, *id.* p. 61.

[3] See Sir Charles Metcalfe's Minute, Report of Select Committee of House of Commons, 1832, Vol. iii, App. 84, p. 331.

[4] It was sometimes elective.—*Maine's Village Communities*, p. 122; *Mr. Shore's Minute of 18th June* 1789, § 245, and *Mr. Holt Mackenzie's Minute of the 1st July* 1819, § 523.

[5] See *Maine's Village Communities in the East and West*, p. 15.

[6] *Elphinstone's History of England*, p. 66; *Maine's Village Communities*, pp. 86, 112.

[7] Sometimes again the waste was partly held in common and partly divided.—*Carnegy's Land Tenures of Upper India*, p. 5.

of the community.[1] All the members were liable for the dues of government and other public burdens[2] in proportion to their respective shares.

§ 19.—While the Village Community remained in its infancy, this simple state of things presented no conflict of rights, no difficult social problems which could not be solved by the Headman assisted by assessors of his own choice, or by arbitrators named by the parties. But as the Patriarchal Family became further developed, as the original stock became more ramified, as the shares of the original members became divided and subdivided by the operation of a law of inheritance, which did not acknowledge primogeniture,[3] and as the transfer of shares was first allowed and then became usual,—a very much more complex state of affairs arose, new rights sprang into existence, and the idea was created of individual claims at variance with common ownership.[4] Had the lands remained in the

Subsequent progress.

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[1] An individual thus had many plots or patches, some north, some south, and some perhaps east and west of the village. This interlacing of plots is one great source of difficulty, when the land of a village comes to be measured.—See the Author's *Law of Evidence, Appendix I*, p. 551.

[2] Such as repairs of the walls and temples, the cost of public sacrifices, charities, ceremonies, and amusements on festivals. Each township managed its own internal affairs, police, administration of justice, &c. It has been thought by some that this principle of self-government can be restored and adapted to modern requirements. In Bengal Proper, the Village Community early fell into decay, if indeed it ever existed in its integrity, which may be doubtful. The success of any attempt at *restoration* must therefore be problematical in this part of the country.

The following is a list of the officers of a complete Village Community :—

1. Headman = Patel, mokaddam, mandal, gaud.
2. Accountant = Karnam, kalkarni, tallati, patwari.
3. Watchman = Mhar, tillari, paggí, dauráha, paik, pasban, gorayat, chaukidar.
4. Priest or Bramin.
5. Schoolmaster.
6. Astrologer = Fotishì, Foshì.
7. Smith.
8. Carpenter.
9. Potter.
10. Washerman.
11. Barber.
12. Cowkeeper.
13. Doctor.
14. Musician.
15. Poet, minstrel, and genealogist.

Kulkarni

In addition to these the *dancing girl* is found in southern India. Properly speaking, the village officers were twelve in number, *bara ballawatti or ayangadi*, but the list varies, some that are found in some villages being wanting in others. Each of them was remunerated sometimes by a fee in money, sometimes by a portion of the produce (ayá), a handful or so out of each measure of grain of every member of the community; but perhaps more generally by the allotment of a piece of cultivated land, which generally became the hereditary possession of his family. In some places instead of a single headman, there was a village Council or *Panchayat* (assemblage of *five* originally, though the word is used when the number exceeds five); but it may be that these were merely the arbitrators appointed to assist the headman. In *Mr. Shore's Minute of the 18th June* 1789, paras. 242—246, will be found an account of the influence of the headman, and how it was exerted for his own benefit exclusively in parts of Bengal.

[3] For an account of a "heart-rending intermixed tenure" created by subdivision as a result of inheritance—See *Carnegy's Land Tenures of Upper India*, p. 5.

[4] The first division was called *pane* or *patti*. This was subdivided into *tholas* or *thoks*; and these again into *bhóris*; but the terms, and even the use of the same terms, varied in different parts of the country.

possession of the descendants of the original members of the Patriarchal Family, sufficient complexity would have been brought about by the operation of the law of succession; but the introduction of strangers was a fresh source of intricacy. This introduction was effected in two ways: *First*,—a member of the community might sell or mortgage his rights to a stranger.[1] This was not, however, very frequent in the early history of the township, though it became more common in later times. *Secondly*,—the original settlers, finding that they had more good land than they themselves could cultivate, would endeavour to make a profit of it through the labours of others. No method came easier than to assign it to a person who would engage to pay the government share of the produce with an additional share to the community. While land was plenty and many villages in progress, no man would undertake to clear a spot unless he was to enjoy it for ever; and hence permanent tenants would arise.[2] When a share of the common rights passed into the hands of females or of persons whose caste prevented them from personally performing the manual labor of cultivation, a similar practice would be adopted as to land already brought under tillage, which would thus be made over to some one who would undertake to cultivate it, to discharge the government dues, and give a share of the produce to those on whose behalf he cultivated. Temporary tenants would thus be created. Love of ease so natural to the native of India, and ambition to enjoy a superior status, the occupier of which without labouring with his own hands was supported by the labour of others, would bring about similar results as to other portions of the land.

Khúdkásht Raiyats

§ 20.—The permanent tenants settled in the village and were called *Khúdkásht Raiyats i.e. raiyats* cultivating the land of their *own* village, or the village in which they resided.[3] The rights of this class have been often mistaken; and they have themselves been confounded with the village zemindárs or proprietors whose lands they cultivated. This was no doubt due to the fact that while in some parts of the country, as for example in

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[1] "When by the process just described" (subdivision by inheritance) "one estate had expanded into several separate properties, it not infrequently happened afterwards that one or more of these properties was overtaken by misfortune, and the proprietors were reduced to every sort of shift to save their land or to make the most they could in parting with it. One member of the community would seek the protection of a chief of his own clan, and make over his holding in trust to him; another would take his holding to that chief's rival, in view of establishing a balance of power, lest the whole village should be absorbed by the first chief; a third would court the official protection of the *kánungo;* a fourth would crave shelter from a Bramin of note, relying on his sacred calling to secure his possession; a fifth would mortgage to a money-lender; and a sixth might sell to a neighbouring capitalist; and the result of all this would be that people of different tribes and persuasions varying in number from two to ten would gain and did gain a footing in those sub-divided villages."—*Carnegy's Land Tenures*, pp. 5, 6.

[2] *Elphinstone's History of India*, p. 69.

[3] From *khúd* = own, and *kásht* = cultivation: sometimes erroneously interpreted "cultivating their *own land*," and so leading to the mistaken notion that they had hereditary proprietary rights.—See *Elphinstone's History of India*, p. 248; *Mr. Shore's Minute of 18th June* 1789, § 225; *Mr. Holt Mackenzie's Minute of 1st July* 1819, §§ 328, 399, 431, &c; and *Carnegy's Land Tenures*, p. 40, on this and other points connected with their *status*. They are also called *chhapper-band raiyats*, from which and the antithesis of *paikásht*, the meaning is plain.

Bundlekund, the village zemindárs were the actual cultivators; in other parts they had acquired a superior status, and the manual labor of agriculture had come to be performed by tenants. Where the original settlers were numerous, and their descendants increased in numbers sufficient to cultivate all their culturable land, the cultivators would naturally be found to be the proprietors or village zemindárs. Where the land of the township was too extensive to be cultivated by the first settlers or their descendants, strangers would be introduced as tenants. Thus the state of things would naturally vary in different parts of the country. Hereditary rights of occupancy have been claimed for *khúdkásht raiyats;* while, on the other hand, it has been contended that they had no rights whatever, and could be ousted at the will of those whose lands they cultivated. The true state of things seems to have been this. When there was plenty of unoccupied land, and population was sparse, the competition was not amongst tenants for land, but amongst zemindárs for raiyats. Tenants once induced to settle in the village were fostered; and where the son was able to step into the father's place, the arrangement suited both parties too well for any doubt to be raised as to the course to be pursued upon the death of a tenant. Non-fulfilment of the conditions on which the land was cultivated, non-discharge of the Government dues or non-delivery of the proprietor's share of the produce, was the only ground which rendered it necessary to remove a tenant. Some landholders indeed conceived themselves to possess the power of ousting these tenants in favor of other persons who were willing to give a higher rent; but in a state of society in which rents were regulated by custom not by competition, such new tenants did not often present themselves, and so the practical exercise of the power was not frequent. Thus, notwithstanding occasional instances of ouster, it gradually became usual, in the language of a later stage of development, not to evict *khúdkásht raiyats* so long as they paid their rent. Under a Government of absolute discretion, destitute of the modern appliances for legislation, *Custom* was really the sole legislative power.[1]

§ 21. The temporary tenants were generally residents of another or neighbouring village, who could not obtain in their own village as much land as they were able to cultivate: and these were called *paikásht raiyats*,[2] or *raiyats* cultivating land *near* their own village. These have been held by all authorities to have no rights and to be mere tenants-at-will. Paikásht Raiyats.

[1] At 252 and following pages of *Selections from the Revenue Records of the North-West Provinces* published in 1866, will be found a number of opinions on this point. The best authorities are pretty well agreed that these tenants could not transfer their rights, *i.e.* sell their land—this privilege belonging to the zemindár class alone. The *khúdkásht raiyat's* interest or the right of occupancy, into which modern legislation has turned it, has of late years become not uncommonly saleable in the Lower Provinces. The courts indeed hold that it is not saleable as of right, though it may become so by custom. The evidence offered in disputed cases very often consists of instances in which the landlord has brought the *raiyat's* interest to sale in execution of a decree for rent. This is a mode of obtaining through the intervention of the courts a fine which goes in payment of the arrears of rent due from the late tenant. That the *raiyat's* interest finds purchasers is an indication of a change having for its ultimate result the substitution of *competition* for *customary* rents.

[2] From *pai* (corruption of *pahi* from *pah* = *pas*, near), 'living near,' 'non-resident,' and *kásht* = cultivation.

They generally made more favorable terms, paid lower rates than the *khúdkásht raiyats.* Not having their habitations in the village, they were not so amenable to pressure, and could at any time abandon the land, to which they had no particular attachment.[1] Amongst both these classes of raiyats, there were variations in the rates, due to several causes; one of the most important of which was that more favorable terms were given to high caste (ashraf) cultivators, such as Bramins, Cshatryas, Kaysths.[2] The amount of this consideration varied, and was sometimes sufficient to enable the favored individual, if above manual labor, to keep a servant to do the work of cultivation. Thus we get a class of laborers, who were sometimes slaves, when servitude was customary and legal.

§ 22. We have thus four classes in the Village Community, *viz.:*— (1) The village zemindárs: (2) Permanent tenants or *khúdkásht raiyats:* (3) Temporary tenants or *paikásht raiyats:* and (4) laborers. It remains to add a fifth whose influence in later times very considerably affected the structure of the little constitution. These were the shopkeepers or dealers in grain and other commodities. The thrift which seems to spring from the pursuit of trade in all countries, and which in India is by no means a prominent natural feature of the great mass of the people, soon made the village shopkeeper the sole capitalist in the community. To him resorted the cultivator whose cattle had been carried off by murrain or who was prevented by sickness from tilling his land; who wanted funds for his own marriage expenses or for the funeral ceremonies of his father or mother or brother; whose store of food had run short, or whose seed grain was deficient. The accommodation afforded was repaid in harvest-time with the produce of the soil, and the trader's store of grain increased. When the former or the latter rain failed, and drought brought famine, it was the grain-dealer's stores which saved the cultivators and their wives and their little ones and their cattle from perishing; and, when they went to him that they might live and not die, he made his bargain with them before he filled their sacks with corn, as Joseph is said to have done with the Egyptians.[3] When invading armies passed by or marauding freebooters came upon the village, and the Headman and the zemindárs were called upon with severity, it may be with torture, to supply their wants and demands, the grain-dealer with his ready capital of grain or of money could alone afford the wherewithal to assuage their urgency and save the village from indiscriminate pillage. It happened betimes that those, who made right by might, put aside the village zemindárs and their Headman, and

The Mahajan.

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[1] In many parts of Bengal in which the Author has had experience, the contrary is now the case. Population has commenced to bear upon the soil and a certain degree of competition for land has been the result. Outsiders will thus pay higher rents than the old residents who enjoy a certain amount of consideration. The protection given by our laws to those who have held for a certain time has also helped to produce this result.

[2] Section 20 of the North-Western Provinces Rent Act (XVIII of 1873) now enacts that in determining the rate of rent payable by a tenant, his caste is not to be taken into consideration, unless it is proved that by *local custom* caste is taken into account in determining such rate.

[3] Profane history relates that during the famine in Egypt, Joseph obtained from the Egyptians a surrender of their rights in the land to the king, as a condition of supplying their wants from the stores of grain in the royal granaries. If a share of the produce was the king's revenue in Egypt, the existence of these stores is at once explained.

substituted for them the persons who could for the time satisfy their exactions. Or in times of less open disturbance, when supersession was threatened by those who collected the Government dues and limited the royal demands and their own by no rule save the power of endurance in the oppressed, the *zemindárs* were driven to satisfy exaction by borrowing from the only one who could lend, and a part of their rights was mortgaged or sold to save a remnant, which on a repetition of oppression and exaction was sure to pass by a similar process to other hands. And so the petty shopkeeper developed into the grain-dealer and capitalist of the community, and became the great man, the *Mahajan* of the Village.[1]

§ 23.—The system of collecting the revenue in kind from the Headman of each village was manageable only when the domain of the State was limited in extent. As petty states were amalgamated by conquest or otherwise, and as the country gradually approached the condition of a single Government under a single sovereign, it became absolutely necessary to change a state of things so primitive and ill-suited to further stages of progress. Coin was scarce; and, where a circulating medium did exist, it circulated very slowly by reason of its paucity. The laws of value and exchange had no operation, for the great commercial machine whose motion they govern was not in being. Powerful chiefs or sovereigns, to the maintenance of whose power large armies were necessary, were unable to pay them in money, for money did not exist in sufficient abundance; and so they assigned them for their support the royal revenue claimable from specified tracts of territory, not infrequently conquered territory, in which as a matter of necessity they were quartered with their leaders: or the assignment was made on a district near which they were already stationed. In course of time, these leaders acquired a local position and importance, and their family taking root in the locality became the germ of an aristocracy between the cultivators and the sovereign. Similar grants were made for the support of civil officers, for the maintenance of temples and of holy men, for the reward of public service, in fact generally to meet the cost of the different departments of the Government, and moreover not infrequently in the exercise of royal munificence to favorites. The grants of one ruler were often resumed by his successors, or threatened resumption was avoided by the payment of such an amount of revenue as left the grant still worth possessing by the grantee or his descendants. It must be carefully borne in mind that what was assigned in all these cases was not the land itself, but the right to collect the Government revenue. Misapprehension on this point has led some to suppose that these grantees were originally landed proprietors.[2]

Creation of an Aristocratic Class superior to the Village Communities.

§ 24.—Many of those to whom these assignments were made, more especially the ministers, the great officers of the household, and personal attendants of the Prince, did not or could not leave the person of the sovereign to reside upon their grants and themselves engage in the task of collecting the revenue: and so it became usual to make over this task to some one who undertook to perform it for a percentage on the collections.

Farmers.

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[1] *Mahajan* means literally 'a great man,' but is now the common term throughout the Presidency of Bengal by which the village money-lender or banker is known.

[2] For an account of similar grants or *jagírs* made by the Mogul Emperors, see *post*, § 54

More commonly the arrangement was one known as *mustájiri*, or "farming," under which the farmer agreed for a certain sum, all that he could extract from the cultivators above this sum being his own profit upon the transaction. That portion of the royal domain which was not the subject of assignment came to be farmed in the same way: and, as the stock of precious metals increased, and money came more regularly into use, this system of farming the public revenue became very usual, the farmer collecting in kind and making the conversion into specie for transmission to the Government Treasury an additional source of profit.[1] Successful farmers, who could contrive to make themselves useful to Government, were seldom disturbed in their charges; and, as was the propensity with all things Indian, their position became in many instances hereditary: and here was another source of a class standing between the sovereign and the cultivators.

Petty Chiefs.

§ 25.—Then there were, in the natural course of things, many petty chiefs who had acquired a local position and influence before they came in contact with a stronger power to which they succumbed, and in which they were absorbed. Though not strong enough to resist absorption, they were yet able to make terms, and, retaining their former relation to those below them, they acknowledged a sovereign over them by the payment of revenue. The custom of the Rajpúts presented some peculiar features. The founder of a State reserved a certain portion of the territory for himself, and divided the rest among his relations according to the Hindú law of partition. The recipient of each share owed military service and general obedience to the Chief, but exercised unlimited authority within his own lands which he divided on similar terms between his relations. A chain of vassal chiefs was thus constituted, to whom the civil and military administration was committed.[2] In these and other ways there came to exist between the sovereign and the village zemindárs a class of aristocracy variously known as *Rajas* and *Talúkdárs*, the exact nature of whose rights puzzled the first English administrators of the country in no slight degree.

Who owned the land?

§ 26.—The collection of the revenue and the tenure of land were so inseparably connected, that the Company's servants, immediately on undertaking the government, to carry on which the collection of revenue was necessary, were brought face to face with the problem of the tenure of land. To solve this problem was an indispensable preliminary to the introduction of that order and system which are of the essence of British Government. Law, then as now, formed no portion of the liberal education of an Englishman. Even those who studied law as a profession were conversant only with the technicalities of a system, which, so far as it is concerned with land or real property, is perhaps the most technical the world has ever seen. Thus few men possessed, with reference to this particular subject, that breadth of view and comprehensive grasp, which are derivable from the knowledge of other systems, and may be acquired by the study of comparative

[1] The system in the Roman Provinces was similar. The *publicanus* who farmed the Roman taxes had his counterpart in the Indian *mustájir*: and there was a rare similarity between the practices of both.

[2] Elphinstone's *History of India*, pp. 76, 250. See also Campbell's *Modern India and its Government*, p. 81.

jurisprudence. And so it happened that to English gentlemen—possessed of marvellous energy, great ability, the highest honesty of purpose, and spotless integrity, but destitute of that light which alone could have guided them to the truth—fell the task of solving this problem: and the solution appeared to them to depend upon the answer to this question—"Who owns the land?"

§ 27.—These gentlemen had, some of them, estates in England: and those who were themselves possessed of no landed property, had been familiar from their boyhood with the estates of the English aristocracy and gentry; and perhaps hoped, as the result of their labors in India, to become owners of similar estates in their own country in the evening of their days. From the point of view suggested by their knowledge and associations they thought that some class in India must own the land in the same way as English landlords own their estates, and they set themselves to find out who this class were—in fact to answer the question—"who owns the land?"[1] Now the fact really was that no class or members of a class owned the land or any portion of it in the sense in which an Englishman owns his estate; the ideas of property in land were wholly different in the

Fallacy involved in this question.

[1] As a matter of fact no one ever did or can *own* land in any country, that is, in the sense of absolute ownership,—such ownership as a man may have in moveable property, for example, a cow or a sheep which may be stolen, killed and eaten, or a table or chair which may be broken up and burnt. Land is immoveable, indestructible. No man, however feloniously inclined, can run away with an acre of it. The Máratta freebooter and the Pindari marauder were alike powerless to carry it off.—See *Williams on the Law of Real Property*, pp. 1—20, who, after remarking upon the erroneous notions too generally entertained amongst non-professional persons upon the subject of property in land, goes on to say:—"The thing then the student has to do is to get rid of the idea of absolute ownership. Such an idea is quite unknown to the English law. No man is in law the absolute owner of lands. He can only hold an estate in them." If the laws of our country formed part of a liberal education, these erroneous notions would not prevail. The Author once travelled home from India with an English land-*owner*, who had made the tour of the globe to study the different tenures of land in various countries, but who was absolutely horrified at being told that no man could be the absolute owner of land, and that no man was so in England. There is reason to believe that the first administrators of the Company's territory in India had similar vague notions of the law of real property in their own country. A very strong indication of this is the use of the word "*estate*," which in legal phraseology means the quantity of interest in realty owned by an individual, the aggregate of the rights over land vested in a particular person. The dimensions of this interest may vary very considerably, *e.g.* an estate for life, an estate-tail, an estate in fee-simple, none of which phrases carries the idea of owning the land itself. One estate may be carved up into several: thus an estate in fee may be cut up into several life-estates. In popular phraseology the word "estate" is applied to the land itself, and this is the way in which it was applied in India by the first administrators, and has continued to be applied down to the present hour.—(See the Bengal Regulations *passim*, more especially cl 2, s. 2, Reg. XLVIII of 1793; cl. 2, s. 2, Reg. XIX of 1795; s. 1, Act VII (B.C.) of 1868; and Mr. Holt Mackenzie's Minute of 1st July 1819, § 562A). Had they started with the right use of the word, they would not have searched for an ownership which they never found, because no such thing ever existed; but would have sought to discover what were the "estates" in land in India; and it would soon have been clear to them that no estates existed similar to those in England; that the carving was in fact done on a different principle, the thing cut up being the same in both countries, but the English system of cutting being different, more exact and intricate.

two countries:[1] and there was in India no kind of ownership which corresponded with that aggregate of rights, the highest known to English law, and which is termed a fee-simple.

The Bengal Zemindárs.

§ 28.—The Provinces of Bengal, Bahár, and Orissa were the first territories in which the solution of the problem was attempted. In these provinces there were at the commencement of our rule a class of persons called, "*zemindárs*," as to whose position and rights there was then, and has ever since been, the greatest doubt and discussion. No attempt to define their position and rights could now possibly succeed, and this for two reasons. In the first place, the new status which we gave them by the Permanent Settlement in 1793 has effaced many of the traces of the previous state of things. The old foundations are buried beneath the new structure. In the second place it may be doubted if their position and rights were ever capable of exact definition. Under an arbitrary system of Government, where so much depended upon the will of the Ruler, rights were not demarcated by metes and bounds as they are under a systematic constitution like that of Great Britain. There are, however, some facts relating to these zemindárs, which are tolerably clear, though there may be a difference of opinion as to the proper conclusions to be drawn from them.

Their former position.

§ 29. The first of these facts is that the Bengal zemindárs were something wholly distinct from the Village zemindárs of whom we have been speaking, and more nearly resembled the talúkdárs of Upper India. In the North-Western Provinces the talúkdár was superior, and the zemindár inferior. The reverse was the case in Bengal.[2] The

[1] "There seems to be the heaviest presumption against the existence in any part of India of a form of ownership conferring the exact rights on the proprietor which are given by the present English ownership in fee-simple."—*Maine's Village Communities*, p. 160. I would go farther and say that it is positively certain that no such assemblage of rights ever existed or was known in India. History, it is true, repeats itself, but not in this way; and it would have been an extraordinary repetition of the concurrence of those accidental circumstances which created the English fee-simple, that could have produced an exactly similar result in India. The ability of Mr. Holt Mackenzie saw this source of error also, though he did not grasp the whole point as he would undoubtedly have done, if his mind had been trained by the study of jurisprudence.—See his *Minute*, §§ 389—393, 473.

[2] The word *talúk*, *talúka* is derived from the Arabic word '*alak*' which signifies 'to hang from,' 'to depend upon' (*alak* also means a leech, which hangs from the body to which it has attached itself and has another quality said to have belonged also to the *talúkdár*) and means connexion, dependence. In Upper India the *talúk* was dependent upon, subordinate to the sovereign. In Bengal the *talúk* was subordinate to the *zemindári*, but not always. The larger *talúkdárs* were *huzúrí*, *i.e.* they were immediately under the supreme Government, to which they paid their revenue direct: while the smaller ones were *mazkúri* or specified, *i.e.* in the *sanad* of the zemindár, through whom they paid their revenue. Doubtless all were originally *huzurí*, but when the revenue came to be collected Through the *zemindárs*, the smaller *talúkdárs* were directed to pay their revenue through this channel in order to avoid the inconvenience of a multiplicity of small payments into the Khalsa or treasury of the State. As to the different use of the words *zemindár* and *talúkdár* in different parts of the country, see *Mr. Holt Mackenzie's Minute*, §§ 110, 395—400, 459; *Carnegy's Land Tenures in Upper India*, p. 68 and following pages; *Wilson's Glossary*; Reg. VIII of 1793 (especially ss. 5, 6, and 7) and II of 1805 (cls. 1 & 2 of s. 17); and *Mr. Shore's Minute* of 2nd April 1788 near the end.

talúkdár was subordinate to the zemindár, where any relation existed between them. Some large talúkdárs indeed paid their revenue direct to Government and were independent of the zemindár; but in no case was the zemindár subordinate to the talúkdár. The Bengal zemindárs,[1] as we found them, were the persons who collected the revenue from the cultivators and other subordinate holders, and were responsible for paying it into the Government treasury. They were no doubt in many instances *rajas* or chiefs, or persons

[1] "Most of the considerable zemindárs in Bengal may be traced to an origin within the last century and a half. The extent of their jurisdictions has been considerably augmented during the time of Jafíer Khan, and since by purchases from the original proprietors, by acquisitions in default of legal heirs or in consequence of the confiscation of the lands of other zemindárs. Instances are even related in which zemindárís have been forced upon the incumbents."—*Mr. Shore's Minute of 2nd April* 1788. "Since the decline of the constitution in the reign of Farokhsír and the introduction of the *farming system* at the recommendation of Rattanchand, when corruption pervaded every department of the State, the unprincipled *zemindárs*, by ingratiating themselves with the amils or rulers for the time being, distressed the inferior zemindárs by every possible mode, until they were reduced to the necessity of selling their zemindárís to their oppressors, who thenceforward became by virtue of usage, not of right, the acknowledged proprietors of them. Other zemindárs, having desolated their lands by mismanagement and dissipation, were obliged by the ruling power to dispose of them to more prudent and opulent zemindárs for the liquidation of their balances. The title of the purchasers of such land was considered good and valid. Towards the close of the reign of Mahomed Sháh, during the administration of Ramnarain and Jankiram and other Názims of the Bahár Province, certain zemindárs by attaching themselves to these officers acquired great influence, and either by force or under different pretences, unjustly possessed themselves of the estates of the inferior landholders, till at length becoming rich and powerful through connivance of the Názim who permitted these usurpations, they declared themselves the proprietors of the lands thus unfairly acquired. It was by the above modes that many zemindárs of this province augmented their possessions. From being proprietors of a *talúk*, they became possessors of a *pargana*; and from possessors of one *pargana*, they became possessors of many."—*Answers to Questions put to Ghulam Hosen Khan the Historian, son of Fakhar-Ud-Daulah, formerly Názim of Bahár.* Mr. Shore, in his Minutes of the 2nd April 1788 and 18th June 1789, says that the origin of the proprietary and hereditary rights of the zemindárs is uncertain; that in Akbar's time the zemindárs of Bengal were numerous, rich and powerful; that they were not of his creation and probably existed with some possible variation in their rights and privileges before the Mahomadan conquests in Hindustan and, without any formal acknowledgment, acquired stability by prescription. He infers that the new invaders who claimed the revenues of the country, from motives of policy and humanity, employed the ancient possessors of the land as their agents for the collection of the taxes of the State, superadding the jurisdiction exercised by the Collectors of revenue in their own system of finance; and that, for this purpose, they confirmed the former proprietors by *sanads* or grants conferring offices of an inheritable and permanent nature. He does not consider the *sanad* to be the foundation of the tenure. In *Appendix No.* 15 *to Mr. Shore's Minute* will be found an account of the origin and descent of the zemindárs of Rajshaye, Dinajpore, Bardwan, Nadia, and Lushkerpore, showing that the *zemindárí* descended in these families. "Zemindárís," says the Rairaiyan in his answers, "are of various kinds. Some are obtained by inheritance, some by clearing the country of wood, some by the ejectment of the former possessor for ill-behaviour, some by purchase, and some in trust. Some are large and some small." In dealing with the argument drawn from inheritance, it may be well to remember that under native rule a *zemindárí* did not descend in exact conformity with the Hindu and Mahomadan law inasmuch as it descended *intact* to one heir and was not sub-divided. Reg. XI of 1793 abolished

otherwise possessed of local importance and influence, which the Mahomedan *súbahdárs* utilized for the collection of the revenue, and which were augmented and extended by being thus called into active exercise, supported by the authority of Government. Where no such persons existed, the want was supplied by appointing some of the numerous candidates who were ready to give a handsome consideration for a position which afforded great opportunities of profit.[1] Once the practice was introduced of making money out

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this "custom originating in considerations of financial convenience, established under the native administrations, according to which some of the most extensive zemindáris are not liable to division." Mr. Harington gave Lord Cornwallis in 1789 the following definition of a Bengal zemindár as he existed before our rule; and, writing 28 years afterwards, he said he saw no reason to alter it:—"A landholder of a peculiar description not definable by any single term in our language—a receiver of the territorial revenue of the State from the *raiyats* and other under-tenants of land—allowed to succeed to his zemindárí by inheritance, yet in general required to take out a renewal of his title from the sovereign or his representative on payment of a *peishcush* or fine of investiture to the Emperor, and a *nazarana* or present to his provincial delegate the Názim—permitted to transfer his *zemindárí* by sale or gift; yet commonly expected to obtain previous special permission—privileged to be generally the annual contractor for the public revenue receivable from his *zemindárí;* yet set aside with a limited provision in land or money, whenever it was the pleasure of Government to collect the rents by separate agency or to assign them temporarily or permanently, by the grant of a *jagír* or *altamgha*—authorized in Bengal since the early part of the eighteenth century to apportion to the parganas, villages, and lesser divisions of land within his *zemindárí* the *abwáb* or cesses, imposed by the *súbahdár*, usually in some proportion to the standard assessment of the zemindárí established by Todar Mal and others; yet subject to the discretionary interference of public authority either to equalize the amount assessed on particular divisions or to abolish what appeared oppressive to the *raiyat*—entitled to any contingent emoluments proceeding from his contract during the period of his agreement; yet bound by the terms of his tenure to deliver in a faithful account of his receipts—responsible, by the same terms, for keeping the peace within his jurisdiction; but apparently allowed to apprehend only and deliver over to a Musalman Magistrate for trial and punishment."—(See also Campbell's *Modern India*, pp. 78—81). The account of receipts was not always a very faithful one. The *Jama-wasil-baki* paper (see the Author's *Law of Evidence*, p. 553) prepared at the end of the year from the actual accounts of the year is said to have been invented by Udhmant Singh of Nussipúr in the district of Múrshedabád in order to enable the accounts of receipts to be rendered in the manner most suited to the zemindár. It is said that even at the present day the *amlah* or employees of many zemindárs prepare two sets of these papers—one correct, for their own use—the other drawn out as may be most suitable for use in Court.

[1] In order to understand exactly what the sources of profit were, it must be borne in mind that the zemindár (or talúkdár in the North-Western Provinces) paid a fixed sum to Government. This sum was revised occasionally, but it was fixed for the time being. All beyond this sum, that could be exacted from the subordinate holders, was clear gain. Improved agriculture, the cultivation of further portions of waste land, the discovery of land held revenue-free without right, the imposition of cesses (*abwáb*), the levy of customary fees, and the possession of *sír* land, as the home-farm or lord's demesne of the zemindár was called, were all sources, which, worked with arbitrary and too often lawless discretion, yielded a very considerable income. What the zemindár paid to Government was fixed: what he was to take from the *raiyats* was not fixed. "The institutes of Akbar show," says Mr. Shore, "that the relative proportions of the produce were settled between the cultivator and the Government; yet in Bengal I can find no instances of Government regulating those proportions." Mr. Carnegy arrived at the same conclusion in Oudh.

of the appointment of *zemindárs*, it became the most natural thing possible to exact a sum by way of fine or *nazarána* upon every accession to the position, even in the case of the heirs of the *zemindárs* of the former class, in whose family their rights had been hereditary before the existence of the Mogul power. Persons who had undoubted rights of succession found it expedient to comply with the demands of those who had it in their power to put these rights aside; and the heirs of those, whose *sanads* or patents were not a generation old, were too willing to pay for succeeding to a position to which they had not a shadow of a title other than the will of the ruler.[1]

Arguments for and against making them landowners in the English sense.

§ 30.—Those who looked chiefly at the one class of zemindárs were convinced that a *zemindári* was an hereditary proprietary right in the soil, very similar to, if not identical with, an Englishman's right in his estate. Those who confined their attention to the latter class contended that it was nothing but an office; and, when pressed with instances of regular succession, replied that it was the tendency of all offices to become hereditary under the particular system. The holders of the latter opinion argued that the principle of dividing the produce with the cultivators annihilates the idea of a proprietary inheritable right—that the existence of the *sanad* proves investiture essential—that a *zemindári* is expressly called a *service* in the *sanad*, the terms of which assign duties but convey no property—that a fine was paid to the sovereign as a preliminary to investiture—and that security was taken for the personal appearance of the zemindár,—all which are inconsistent with the notion of a proprietary right in him. Those who maintained the former view replied that the State claimed merely a *share* of the rents or produce, and this was not incompatible with the existence of proprietary right—that a *zemindári* was inheritable by usage and prescription, the force of which are admitted in all countries, when derived from principles of natural right and conformable to right reason—that the *sanad* was never conferred at discretion upon an alien to the exclusion of the heir and was

[1] See a *Note on the mode of Investing a Zemindár, Appendix No.* 9 *to Mr. Shore's Minute of 2nd April* 1788. The zemindárs of Nádia, Bardwan, Dinajpore, and formerly of Bishenpúr, Pachete, Birbhúm, and Roshanabad were instances of the first of the above classes—see the *Rairayan's Answers, Appendix No.* 17, *id.* The succession of the latter, especially where powerful, was no doubt assisted by the growing weakness of the Mogul power. Exactly the same thing happened in respect of the ancient *benefices* in Europe—see *Hallam's Middle Ages*, vol. i, pp. 160, 161, and 172. In the last place Mr. Hallam says "Some writers have accounted for reliefs in the following manner. Benefices, whether depending upon the crown or its vassals, were not originally granted by way of absolute inheritance but renewed from time to time upon the death of the possessor, till long custom grew up into right. Hence a sum of money, something between a price and a gratuity, would naturally be offered by the heir on receiving a fresh investiture of the fief, and length of time might as legitimately turn this present into a due to the lord, as it rendered the inheritance of the tenant indefeasible. This is a very specious account of the matter. But those who consider &c.... will perhaps be led rather to look for the origin of reliefs in that rapacity with which the powerful are ever ready to oppress the feeble." The same may be said of Bengal zemindárs, the difficulty of arguing as to whose *rights* at all will appear from the following sagacious remarks of Mr. Shore—"The constitution of the Mogul Empire, despotic in its principle, arbitrary and irregular in its practice, renders it sometimes almost impossible to discriminate between power and principle, fact and right; and, if custom be appealed to, precedents in violation of it are produced."

properly construed as confirming existing rights, not as creating new ones—that it was only the principal zemindárs who asked or received *sanads*, while the inferior zemindárs succeeded according to their own laws of inheritance—that the use of the word *service* in the *sanad* proved nothing, when the tenure was found to be hereditary, and property depending upon service in its inception may have become by usage hereditary[1]—that the *nazarána* paid on investiture was probably an exaction, or ought at any rate to be regarded as a fine for the renewal of an estate—that the *Krorí* and *Amil*, both holding an office concerned with the collection of the revenue, paid no *nazarána*, and did not succeed by inheritance—that in a country subject to frequent revolutions in which the zemindár as often took part against the Government as with it, the security for personal appearance was merely a device to keep them to their allegiance—that the *sanad* contained no term, and the obvious inference was that the tenure was to continue so long as the conditions of the grant were observed.[2]

View of Policy turned the scale.

§ 31.—The arguments on neither side being conclusive, the question of policy[3] or expediency was introduced to turn the scale. Having a patriotic respect for the blessings enjoyed by Englishmen and for the institutions which were the source of them, both sides believed that the same blessings would be secured for India, if the same institutions were planted there. Thus, when it was argued that, if the zemindárs were not landowners in the English sense, they ought to be made so, they who stoutly maintained the negative side of the general question were not prepared to gainsay a proposition, to question which would have been to doubt the excellency of those institutions which have always been the boast of every Briton; and they were perhaps secretly not disinclined to compromise a controversy in which victory seemed inclined to declare for neither party. And so it was determined to remove all those tenements which had come into existence under a system —— arbitrary indeed and uncertain, but never wholly contemning custom so far as to sweep away at one stroke every vestige of what it had erected —— and by their removal clear the ground in order to create English Estates. The Bengal Zemindárs were declared proprietors[4] of the estates thus called into being—in name and upon paper; but, though the power of Government could clear the site and demolish all that stood thereon, it could not lay it out anew after the exemplar which

[1] The history of other countries and indeed of India itself supports this argument.

[2] *Mr. Shore's Minute of the 2nd April* 1788.

[3] "The general question may with propriety be divided into two parts; of right and policy."—*Mr. Shore, id.*

[4] The proprietary right conferred by the Permanent Settlement was really an estate (in the legal sense) of much greater dimensions than an English fee simple. Not only were all other estates destroyed to create it; but, by the device of the Sale Law, as often as the Government revenue (land tax) was not paid, all subordinate estates, created since the Permanent Settlement, were annihilated, and the higher estate handed over to its new possessor free of incumbrance. A system which thus interfered with the transferability of land, save under one condition, and prohibited the creation of such new rights as convenience suggested, must have been a fatal barrier to progress, and this actually proved to be the case. When we come to the history of the Sale Law in Bengal, we shall see how this barrier had to be broken down.

was present to the mind of the noble statesman, under whose auspices this well-meant attempt at improvement was made.

§ 32.—"Never," wrote Lord Hastings in his Minute of the 31st December 1819, "was there any measure conceived in a purer spirit of generous humanity and disinterested justice, than the plan for the Permanent Settlement in the Lower Provinces. It was worthy the soul of a Cornwallis: yet this truly benevolent purpose, fashioned with great care and deliberation, has to our painful knowledge subjected almost the whole of the lower classes throughout these provinces to most grievous oppression—an oppression, too, so guaranteed by our pledge that we are unable to relieve the sufferers."[1] One of the effects of making the zemindárs proprietors and fixing for ever the Government demand of revenue was that all other rights in land were so completely effaced that at this present

Effect of the Permanent Settlement.

[1] Lord Cornwallis was alone responsible for making the settlement permanent upon the information possessed at the time and without adequate provision for protecting the rights of the *raiyats* and other subordinate holders. On both these points he acted in opposition to the opinion of Mr. Shore (afterwards Lord Teignmouth) for whom he had however the greatest admiration and respect—See *Mr. Shore's Minute of the* 18*th September* 1789 (§§ 68—72); *Lord Cornwallis's Minute of the same date; Mr. Shore's Minute of the same date in reply; Mr. Shore's Minute of the* 21*st December* 1789 *and Lord Cornwallis's Minute of the* 10*th February* 1790, *Appendix to Vol. I of the Fifth Report*, pp. 555—609. Mr. Shore argued that whatever confidence they might then have in the propriety of the measure, they could not pronounce absolutely upon its success without experience, and that before recommending its perpetual confirmation, they ought to have that experience. He was in favour of the rights of the zemindárs—his arguments on this point convinced Lord Cornwallis—and he did not think that any increase of the then revenue was to be expected. The experience of less than twenty years disproved both views. A great mistake would have been avoided, if his advice had prevailed, which counselled to wait for the results of further experience. In advocating the necessity for interposition between the *zemindárs* and the *raiyats*, he pointed out that the situation of things we found was singularly confused—that the relation of a *zemindár* to Government and of a *raiyat* to a *zemindár* was neither that of a proprietor nor a vassal, but a compound of both—that the former performed acts of authority unconnected with proprietary right, the latter had rights without real property—that the property of the one and the rights of the other were in a great measure held at discretion—that such was the system we found and were under the necessity of adopting for that present—that much time must elapse before a system perfectly consistent in all its parts could be established, and the compound relation of *zemindár* to Government and *raiyat* to *zemindár* be reduced to the *simple principles of landlord and tenant*. He added that he for his part was not ashamed to distrust his own knowledge as he had frequent proofs that new enquiries led to new information. These remarks display much of the cautious wisdom of a true statesman. One important piece of information which subsequent inquiries have afforded us is that *competition rents* did not exist in India: and that, where *customary rents* alone prevail, the principles of landlord and tenant are anything but simple. Lord Cornwallis was convinced that if the zemindárs were made proprietors subject to the payment of a fixed revenue or land-tax, they would of themselves and for their own interest adjust the relations between them and their *raiyats* on a satisfactory footing, and that enough would be done, if the right of interference, should it be necessary, were retained. The result has shown how grievously he was mistaken. The right of interference was reserved (cl. 1, s. 8, Reg. I of 1793), but it was not exercised until 66 years after (when Act X of 1859 was passed) and it was then too late.

hour it is difficult to find a single vestige of them or to ascertain what they were. Mr. Holt Mackenzie, in his celebrated Minute written in 1819, expressed an opinion that the resident *(Khudkásht) raiyats* of Bengal were originally of the same class with the Village Zemindárs of the North-Western Provinces; but even *then* it was speculation merely, so effectually had the work of demolition been accomplished. The rights which now exist in land in the Lower Provinces of Bengal are nearly all of recent creation, dating from or after the Permanent Settlement of 1793. When I came to trace the history of the Sale Law in these Provinces, I shall point out how intimately the creation of existing rights is connected with that history. Meanwhile the following outline may be useful to the student.

Lakhiraj Tenure.

§ 33.—The largest estate or assemblage of rights in land in the Lower Provinces of Bengal is a *Lakhiraj* or Revenue-free Tenure.[1] This tenure may be generally described by saying that it possesses all the incidents and advantages of a *Zemindárí* tenure, with this additional one that, as it pays no revenue to Government, it is not liable to sale for arrears of such revenue. One important consequence of this non-liability to sale for arrears is that there is no statutory mode of avoiding incumbrances once created by the *lakhirajdár.*

Zemindári Tenure.

§ 34.—A *Zemindárí Tenure* is an absolute right of proprietorship in the soil, subject to the payment of a fixed amount of revenue to Government. If this revenue fall into arrears, the estate[2] may be put up to auction and sold to the highest bidder. The purchaser acquires the estate free of all incumbrances created since the time of the permanent settlement and obtains a statutory title.[3] A *zemindárí* is inheritable according to the law of succession by which the proprietor is governed. It is assignable in whole or in part. It may be mortgaged. The zemindár can grant leases either for a term or in perpetuity. He is entitled to rent for all land lying within the limits of his *zemindárí,* and the rights of mining, fishing, and other incorporeal rights are included in his proprietorship.[4]

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[1] For further information as to this tenure, see Regs. XIX and XXXVII of 1793 and the Notes thereto. The student might well read these here. *Lakhiraj* is derived from *la* = not and *khiraj* = tribute, revenue; and means land which does not pay revenue to Government. This estate is also found in the North-Western Provinces (see ss. 3, 85, 86-89, 103 and 241 of Act XIX of 1873).

[2] An "estate" means any land or share in land occupying a separate number in the Government register of Revenue-paying estates—See s. 1, Act VII (B.C.) of 1868.

[3] The Landed Estates Court in Ireland gives a similar title—See 28 & 29 Vict., c. 88, and 29 & 30 Vict., c. 99. Similar titles were given in the West Indies and in Australia; and within the last few years the Legislature has been occupied with the same subject for England—See *Macnevin's Practice of the Incumbered Estates Court in Ireland; Cust's Treatise on the West Indian Incumbered Estates Court; Gough's Manual of Practice in the Office of Land Registry (England),* and *Torrens' Registration of Title (Australia).*

[4] Mr Harington gives the following definition of a *zemindár* as constituted by the Permanent Settlement: "A landholder, possessing a *zemindárí* estate which is hereditable and transferable by sale, gift, or bequest; subject under all circumstances to the public assessment fixed upon it; entitled after the payment of such assessment to appropriate any surplus rents and profits which may be lawfully receivable by him from the under-tenants of land in his *zemindárí,* or from the

§ 35.—There are in the Lower Provinces of Bengal a variety of tenures held under the Zemindárs and known by different names in different districts. The most important of these tenures are *Talúks*. Some of these have existed from before the permanent settlement;[1] and are known by the generic term of *Shikami*[2] or dependent *Talúks*. The rent at which they are held cannot be enhanced unless upon proof (1) of a special right by custom to enhance, or (2) of a right depending upon the conditions of the grant, or (3) that the *talúkdár*, by receiving abatements, has subjected himself to increase, and that the lands are capable of affording it.[3] If the rent has never been changed since the permanent settlement, it cannot now be enhanced:[4] and, in order to relieve the *talúkdár* in some respect of the difficulty of giving proof extending over a period of so many years, the law provides that, if it be proved that the rent has not been changed for twenty years, it shall be presumed, unless the contrary be shown, that the tenure has been held at the same rent since the permanent settlement.[5] *Patní*[6] *talúks* constitute another important class of subordinate tenures. The origin and incidents of this class will be found fully described in Regulation VIII of 1819 (*post*). Talúks of both classes are inheritable and transferable by sale or otherwise. The remedy for non-payment of rent is not by ejectment but by bringing the *talúk* or tenure to sale. This practice was doubtless adopted from the Revenue Sale Law,[7] to which it bears a strong resemblance as well in other respects as in this, that the purchaser of the tenure is entitled to avoid incumbrances created by the defaulting proprietor. Talúks and similar tenures created since the time of the permanent settlement and held immediately of the proprietors of estates may be protected by[8] registration from avoidance by a sale for arrears of revenue.

Talúks.

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cultivation and improvement of untenanted lands; but subject nevertheless to such rules and restrictions as are already established, or may be hereafter enacted by the British Government for securing the rights and privileges of *raiyats* and other under-tenants, of whatever denomination, in their respective tenures, and for protecting them against undue exaction or oppression."

[1] See sections 6, 7, and 8, Regulation VIII of 1793

[2] Derived from *shikm* = "the belly". hence "subordinate," "dependent," "included." The same class were in the old *Zemindári sanads* denominated *Mazkúri talúks*. A *shikami talúk* cannot be created now, or at least no creation is ever made. The term is properly used of those *talúks* which were in existence at the time of the permanent settlement and were then left dependent on the zemindárs. Subsequent creations are usually founded on the *patní* principle.

[3] Section 51, Regulation VIII of 1793, and see *Mr. Shore's Minute of 28th June*, 1789, *as to Rights of Under-tenants*.

[4] See section 16 of Act VIII (B.C.) of 1869, and section 15 of Act X of 1859.

[5] See section 17 of Act VIII (B.C.) of 1869, and section 16 of Act X of 1859.

[6] The derivation of the word Patní is according to Wilson uncertain. Mr. Harington says it may be rendered "settled or established," which Professor Wilson pronounces *very questionable*. There is a word "pattan" which I have met in several districts used of settling with, letting to, a tenant, which is doubtless connected with Mr. Harington's explanation.

[7] Act VIII (B.C.) of 1865 provides *for the Sale of such Under-tenures as by the Title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.*

[8] See Act XI of 1859 and *post*, §§ 131—137.

§ 36.—It became at an early period a common practice for the holders of talúks to sub-let their lands in whole or in part to inferior tenants on conditions more or less similar to those on which they themselves hold of the zemindár. These under-tenants occasionally sub-let to others in the same way, and so it has come to pass that there are several classes of middlemen between the *zemindár* and the cultivator. Considerable sums are paid by way of fine on the creation of both the parent and subordinate *talúks*.[1] Men who do not like to part with the *status* of zemindár by an absolute sale of the *zemindárí* will readily enough raise money by allowing the proprietary right to be carved up into estates of minor value, the whole substance going into the hands of others, while the name alone remains to them. Inferior holders of tenures follow the same practice, and thus a very considerable class of mere annuitants has been created in Bengal, who have no interest in the land and its improvement. These annuities represent an increase of revenue which might have gone into the coffers of the State. One of the social results of this loss of revenue, has been the creation of a considerable Middle Class, which in all probability would not otherwise have sprung up so rapidly in a country possessing little or no manufacturing industry.[2]

Under-tenures.

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[1] In order to guard themselves from the danger of a sale for arrears of revenue or rent, it is usual for *talúkdars* and undertenants to stipulate that they shall pay the head revenue or rent and deduct it from the amount reserved in the demise to them.

[2] This class have readily availed themselves of the educational advantages of our system. The great difference between Bengal and the North-Western Provinces in respect of a large educated middle class is doubtless due to the difference of the system of settlement. Capital is necessary to the existence of a middle class; and, where there is little or no trade or manufacturing industry, capital available for expenditure without diminishing the principal can only exist in the shape of an annuity derived from land or from the funds. Opinions differ as to the policy of creating such a class. At the commencement of our rule, it was deliberately proposed as one of the great objects to be accomplished. Such a class had made England a great nation—Institute a similar class in India and similar results must follow. At a later period this policy was doubted and to some extent disapproved. Mr. Canning, then President of the Board of Commissioners, in a letter addressed in 1817 to the Chairman of the East India Company stated four points upon which the Court and the Board were unanimous. One of these was.—"That the creation of an artificial class of intermediate proprietors between the Government and the cultivators of the soil, where a class of intermediate proprietors does not exist in the native institutions of the country, would be highly inexpedient." But again in a Dispatch (No. 14 of 9th July 1862) from the Secretary of State it was said that "it is most desirable, that facilities should be given for the gradual growth of a Middle Class connected with the land, without dispossessing the peasant proprietors and occupiers. It is believed that among the latter may be found many men of great intelligence, public spirit, and social influence, although individually in comparative poverty. To give to the intelligent, the thrifty and the enterprising the means of improving their condition, by opening to them the opportunity of exercising these qualities, can be best accomplished by limiting the public demand on their lands. When such men acquire property and find themselves in a thriving condition, they are certain to be well affected towards the Government under which they live. It is on the contentment of the agricultural classes, who form the great bulk of the population that the security of the Government mainly depends. If they are prosperous, any casual out-break on the part of other classes or bodies of men is much less likely to become an element of danger." These conclusions have been scarcely

§ 37.—*Istimrarí* tenures are tenures granted in perpetuity. *Mukarrarí* tenures are those granted at a fixed rent not liable to enhancement. Generally speaking, however, the two conditions are now found combined; and where the term is in perpetuity, the rent is fixed for ever. These tenures, though not called *talúks*, differ little in their incidents therefrom. They are transferable and inheritable, and may be protected by registration[1] from the effects of a revenue sale. Many tenures, the incidents of which were not exactly defined when they were created, have become *istimrarí* and *mukarrarí* by custom assisted by our legislation. Being allowed to descend from father to son without opposition, they have come to be regarded as *istimrarí*, more especially after one or two transfers, and devolution by inheritance upon the heirs of the transferree. The law[2] declares that, where the rent has not been changed since the permanent settlement, it cannot be enhanced, and here also a statutory presumption has been brought in to facilitate the means of proof; and thus many tenures have become *mukarrarí* which were not so in their inception. I believe that many tenures which were originally created in favour of cultivating *raiyats*, have, in the course of time, come to be treated as intermediate interests between the proprietors and the *raiyats*, the original grantee or lessee having sub-let and converted himself into a middleman[3] without remark or objection from the superior landlord.[4]

Istimrari and Mukarrari Tenures.

§ 38.—Passing from these intermediate tenures, the conditions and the law of which can scarcely be said to be very well or clearly known or settled, we come to the actual

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justified by some of the emanations of the Native Press, which is an offset of the Middle Class of our creation and education.

[1] See Act XI of 1859 and *post*, § 132.

[2] See sections 3, 4, 16, and 17 of Act VIII (B.C.) of 1859, and the corresponding sections of Act X of 1859.

[3] Mr. H. Colebrooke in his *Remarks on the Husbandry and Internal Commerce of Bengal* expresses an opinion that the origin of the tenures of the petty proprietors in Eastern Bengal is due to an extension of the rights of occupants from vague permanence to a declared, hereditary, and even transferable interest.

[4] Notwithstanding the greatest efforts on the part of the legislature, the general introduction of written leases never could be effected in Bengal, both parties having an invincible dislike to tie themselves down to written terms which would effectually prevent future attempts by either party to circumvent the other. The *zemindár* did not like a written lease which might interfere with his levy of unauthorized cesses, and the *raiyat* was afraid that the consolidation of all demands in one lump sum would be only the creation of a new *asil* or original rent, upon which to calculate fresh cesses, all cesses being generally an addition of so much in the rupee to the original rent. There was also a very general idea that the acceptance of a *patta* for a fixed term would diminish the force of that prescription which established a right of occupancy in the raiyat's favour. Even where writing has been used, the most ordinary contingencies are not provided for, and the writing really contains but part of the contract. There is no proper system of conveyancing in the Indian Mofussil. One cause of this doubtless is that there are no legislative provisions which require any class of contracts to be in writing. Where the interest created is of Rs. 100 in value, the writing must be registered, if writing have been used, but the use of writing is not compulsory. The general absence of writing and the incompleteness of the written contract, where such exists, render it extremely difficult to adjudicate upon rights when litigation takes place.

Rights of Cultivators.

cultivators. The distinction of *raiyats* into *khudkasht* and *paikasht* (*ante*, §§ 20, 21), is nowhere mentioned in the great Rent Act,[1] though it is alluded to as still existing in subsequent enactments.[2] The broad distinction now existing between the rights of the actual cultivators is solely the creation of Act X of 1859, which in effect divides them into those having a *right of occupancy*, and those having no such right and who are merely temporary tenants or tenants-at-will. Any *raiyat* who cultivates or holds land for a period of twelve years, whether under a written lease or not, acquires a right of occupancy in the land so cultivated or held by him, so long as he pays the rent payable on account of the same. The holding of his father or other person from whom a raiyat inherits is to be deemed the holding of the raiyat himself.[3] This last provision makes a right of occupancy inheritable, and, though it is not by law transferable, there is a strong tendency in Bengal to make it so by usage.[4] The rent of a *raiyat* who has held at a fixed rate since the time of the permanent settlement cannot now be enhanced; and the fixity of the rate will be presumed, in the absence of evidence to the contrary, from proof that it has not been changed for the last twenty years. The rents of *raiyats* having a right of occupancy can be enhanced only (1) if the rate paid by them is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent: (2) if the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat: or (3) if the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid. Raiyats having a right of occupancy are protected in their privileges against a purchaser at a revenue sale.[5]

Right of Occupancy.

§ 39.—There are a few other rights connected with land in Bengal, which may be briefly noticed. Service tenures (*chakaran*) are found in some parts of the country,

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[1] Act X of 1859, the substantive provisions of which are re-enacted by Act VIII (B.C.) of 1869, with this difference that Rent Cases are, under the provisions of the latter Act tried by the Civil instead of the Revenue Courts.

[2] See, for example, section 16 of Act VIII (B C.) of 1865.

[3] Section 6, Act X of 1859 and section 6, Act VIII (B.C.) of 1869.

[4] There can be no doubt that the holding of a *khudkasht raiyat* was not formerly transferable (see *Mr. Holt Mackenzie's Minute*, § 399; *Mr. Shore's Minute of 28th June* 1789 and *Mr. Harington's remarks written in* 1789 *as to the Rights of Under-tenants*). Mr. Harington considered (1) whether such holdings ought to be made transferable; and (2) whether the rent should be fixed, and answered both questions in the negative.

[5] S. 37 of Act XI of 1859. Some of the strongest arguments urged against the provisions of Act X of 1859 were that, while ignoring the special privileges of *khudkasht raiyats* and the existence of all rights depending upon custom, it conferred the same benefit upon *khudkasht raiyats*, who admittedly had privileges, and *paikasht raiyats* who admittedly had none; and by giving an *ex post facto* operation to the right-of-occupancy provisions in respect of both classes, it did not allow landlords time to provide by contract against the acquisition by the latter class of a right to which they had not a shadow of claim before. In the case of *khudkasht raiyats* the Legislature in giving a right of occupancy merely followed custom, the particular period of twelve years being borrowed from the law of limitation.

being a remnant of the old system under which public officers and even the servants of the village were paid by grants in land instead of by money salaries. Somewhat similar are the *Ghâtwali*[1] tenures found in Birbhúm and elsewhere, granted for keeping the mountain passes against the Maratta and other invaders. Leases of land whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, enjoy special privileges, and may be protected by registration against a revenue sale.[2] A *Khas Mahal*[3] is an estate held by Government standing in the place of the proprietor. Sometimes there is no proprietor, as in the case of waste land, or an island[4] thrown up in a large navigable river. Sometimes there is a proprietor who has refused to accept the terms of settlement offered to him, and who is allowed *malikana*[5] while the estate is held *khas*. Estates held *khas* are sometimes managed by Government through its own servants: and sometimes let out in farm (*ijarah*). Small portions of *waste* land situate within the limits of permanently settled estates belong to the proprietors of such estates; but there are large tracts of waste land in Assam and other places which belong solely to Government. Portions of these latter are reserved for forest uses, for the growth of firewood[6] and for similar purposes. Other portions are sold in lots to suit the convenience of purchasers, who obtain a full hereditary and transferable proprietary right, free for ever from all demand on account of land revenue, but subject to all general taxes and local rates.[7] There are in India, as well as in England, *incorporeal rights* in land; but, owing to the much less artificial state of the law of real property, these rights, in Bengal at least, are not by any means varied or intricate. *Jalkar*, or the right of fishery in all large natural waters in a *zemindári* belongs to the *zemindár*, and is usually leased out at a yearly rent. *Phulkar*, or the right of gathering the fruit of gardens and orchards, is similarly let out. Sometimes *phulkar* means the *zemindar's* right to a part of the fruit of trees standing on a tenant's

Other rights in Land in Bengal.

Waste land.

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[1] *Ghât* means "a landing place," "the terminus of a ferry on either side of the river," "a mountain pass." *Ghâtwal* is a person in charge of a ferry or of a mountain pass. As to these tenures, see Reg XXIX of 1814, *post*.

[2] See cl. 4, s. 37 and s. 43 of Act XI of 1859, and *post*, § 133.

[3] *Mahal* means an estate, land separately assessed with the Government revenue. It is also used, in a figurative sense, of a source of revenue not derived from land *e. g.* the *Abkari*, or Excise *Mahal*. *Khas* means, "peculiar," "private," "own." Thus a *khas mahal* is an estate in the private possession and management of Government.

[4] See cl. 3, s. 4, Reg. XI of 1825.

[5] *Malikana* from *malik*, "an owner," "a proprietor," is an allowance for proprietary right, generally not less than 5, and not more than 10 per cent. on the net collections of the estate.

[6] As for example the *Sandarbans*, or Delta of the Ganges, which supplies Calcutta with firewood.

[7] See *Rules of the Revenue Department*, ch. XXVI, s. iv, para. 8. Act XXIII of 1863 provides for the adjudication of claims to waste lands proposed to be sold or dealt with on account of Government.

land. *Bunkar*, or the right of cutting wood in jungle, or waste land, is often enjoyed by the *raiyats* of cultivated lands in the vicinity.[1]

First steps towards the Settlement of the Ceded and Conquered Provinces.

§ 40.—I now turn to the North-Western Provinces, the territories comprised in which were acquired, as we have seen, some forty years after the grant of the Díwání and about twelve years after the Permanent Settlement had been proclaimed in Bengal, Bahár and Orissa. The first result of inquiries made in order to the settlement of the newly acquired Provinces was to create an impression that a mistake had been committed in 1793, and that the Government had then acted prematurely and upon insufficient information. Subsequent experience still further confirmed this impression: and the Directors therefore wisely resolved not to act without the fullest information in settling the revenue of the Ceded and Conquered Provinces. In the proclamation of the 14th July 1802, addressed by Lord Wellesley to the zemindárs, talukdárs, &c. of the Ceded Provinces, it was notified that after the expiry of ten years, a permanent settlement would be concluded for *such lands as would be in a sufficiently improved state of cultivation to*

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[1] Most incorporeal rights in India are in a very undefined state, and it would not be possible to classify them under the heads, *appendant, appurtenant* and *in gross* used by English lawyers or under any other satisfactory heads. Rights of common for grazing and other purposes no doubt exist in the unappropriated waste land belonging to villages, but these rights have never been the subject of legislation or indeed of much litigation. In Bengal, fields are not generally enclosed unless when sugar-cane or other valuable crops are sown, and then the enclosure is not kept up, once the crop is gathered. In some villages as soon as the regular crops are off the ground, the village cattle in a common herd graze promiscuously over the fields of all. In others, each villager grazes his own cattle on his own land, and trespass on other lands is resisted as vigorously as in England. Whether, in the former case, any one villager could enclose in permanency is a question which I have never known to be raised. The law of *easements* is another branch of law connected with land in India, which is in its infancy. A few sections have however been inserted in the recent Limitation Act (see ss 27, 28 Act IX of 1871), which will doubtless have a considerable effect in settling it by judicial decision. In addition to the tenures mentioned above, there are a variety of tenures met with in different districts of Bengal, such as *gánti jotes* in many districts, *hawâlas* and *nímhawâlas* in Backergunj, *tappas* in Chittagong, *Sarbarahkári* tenures in Cuttack which are now permanent, hereditary and transferable (*Saddananda Maiti* v. *Naurattam Maiti and others*, VIII B. L. R. 280), I have never met with a complete list of these tenures or a description of their incidents, and even in the district, in which any particular tenure is most usual, I have in vain endeavoured to get an accurate description of its origin and peculiarities. During a considerable judicial experience, I have never had a case before me, in which it was attempted to prove the *custom* of any particular tenure. The Permanent Settlement destroyed most customary tenures, and the effect of Act X of 1859 has been to reduce all that remained to the classification of rights contained in that Act. Inheritability, transferability, liability to sale for arrears of rent, and non-liability to enhancement of rent are, it may safely be said, the sole incidents, one or more of which now belong to all tenures in Bengal, by whatever names they may be known. Land is commonly designated from the use made of it *e.g. bastú*, land used for the site of the *raiyat's* homestead from Sans. *bas* = to dwell; *udhbastú*, land adjoining the *bastú* land; *dihi*, land in the village, &c. Each raiyat generally holds a portion of each description, and the rates of rent vary, that for the *bastú* being usually the highest.

warrant the measure.[1] A similar proclamation was in July 1805 addressed to the zemindárs, independent talukdárs, and other actual proprietors of land in the Conquered Provinces and Bundlekund.[2] In 1807 it was further notified to the above classes in all the above-mentioned provinces that the revenue which would be assessed during the last year of the settlement immediately ensuing the then existing settlement would remain fixed for ever, if the arrangement received the sanction of the Court of Directors.[3] This more extensive promise did not however receive the sanction of the Directors,[4] and it was accordingly again notified[5] that such promise was rescinded, and that at the end of the ten years a permanent settlement would be concluded, in the terms of the first proclamation, for such lands only as would be in a sufficiently improved state of cultivation to warrant the measure. It was further declared that it would be the duty of the Board of Commissioners to ascertain what estates were in a sufficiently improved state of cultivation to warrant the conclusion of a permanent settlement.[6]

Restrictions and Conditions for Permanent Settlement of the Ceded and Conquered Provinces.

§ 41.—As soon as it was attempted to carry into effect a rule limited by such a very indefinite condition, the necessity for more exact orders became at once apparent,[7] and the first question asked was—what proportion of waste land should operate to exclude from the benefit of a permanent settlement? This question was then answered by adopting a scale varying from one-third to one-fourth of waste. The Court of Directors ordered[8] that the settlement of no district was to be declared permanent until the whole of the proceedings had been submitted to and approved by them. In order to allow time for the collection, transmission, consideration, and return of the requisite information, it was directed that a further temporary settlement should be made for a period of five years.[9] The first district, in which operations were commenced, was Cawnpore; and the result was, that the Board of Commissioners entertained such doubts as to the accuracy of the materials on which the settlement had to be formed, that the Board and the Government and the Court of Directors were agreed not to confirm the settlement in perpetuity, but to leave it open to revision after the resources of the country had been better ascertained and *individual rights established.*[10] A similar determination was

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[1] During this period of ten years, there were two triennial and one quartennial settlement at an amount of revenue increased for the period of each settlement—See s. 29, Reg. XXV of 1803.

[2] See Reg. IX of 1805.

[3] See s. 5, Reg. X of 1807.

[4] See paras. 44 to 47 of the Dispatch of the 27th February 1810.

[5] See ss. 2 and 3, Reg. IX of 1812, for the Ceded Provinces, and ss. 2 and 3, Reg. X of 1812 for the Conquered Provinces and Bundlekund; and § 19 of Mr. Holt Mackenzie's Minute.

[6] S. 4 of Reg. IX of 1812 and s. 4 of Reg. X of 1812.

[7] It will be seen hereafter that this necessity for more definite instructions increased with additional information, and that, so recently as 1871, a question arose and had to be referred to the Home Government, the discussion of which strongly suggested the idea that much work had been done in the dark before that.

[8] Dispatch of 1st February 1811.

[9] Dispatch of 27th November 1811.

[10] Paras. 49, *et seq.* of general letter of 28th April 1817.

formed in respect of Bareilly and Shahjahanpore to which districts operations were next extended.[1] As inquiry progressed further, it became more and more evident how little reliance was to be placed on arguments drawn from the experience of Bengal, how complicated was the problem to be solved, and how great danger lay in precipitancy.

Inquiry into Rights in Land.

§ 42.—The Court of Directors finally resolved that it was essential to their judgment on the adequacy and stability of any settlement submitted for their confirmation, not merely that they should have ample information respecting the general nature and the resources of the districts, the extent of the land cultivated and capable of cultivation, and the quality and value of the produce; but likewise that they should receive a full and particular detail of all local tenures and usages, of the rates of rent and the modes in which it was collected and distributed, of the constitution of the village communities and the rights and interests of the classes composing them, of the character and habits of the people, and generally of all points relating to the internal condition of the country.[2] To give effect to this resolution, Regulation VII of 1822 was passed, the preamble of which recites it to be the wish and intention of Government that in revising the then existing settlement, the efforts of the Revenue Officers should be chiefly directed not to any general and extensive enhancement of the *jamá*,[3] but to the objects of equalizing the public burthens and of *ascertaining, settling, and recording the rights, interests, privileges, and properties of all persons and classes owning, occupying, managing, or cultivating the land or gathering or disposing of its produce, or collecting or appropriating the rent or revenue* payable on account of land or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcels of any village or mahal. Section 9 enacted that "it shall be the duty of Collectors and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land revenue, *to unite with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests, and privileges of the various classes of the agricultural community*"—and that for this purpose their proceedings should embrace "*the formation of as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and pro-*

Regulation VII of 1822.

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[1] Proceedings of 18th November 1814, and paras. 55, &c. of general letter of 2nd April 1817.

[2] *Mr. Holt Mackenzie's Minute of the 1st July* 1819, § 224. Elsewere in the same Minute, Mr. Mackenzie remarked that the tendency of our revenue system had been to pay rather too little respect to the various tenures and other circumstances attaching to the Village Communities, which must (if private rights be held sacred) limit the Government demand—and he gave it as his opinion that the adequacy or inadequacy of any assessment of revenue could not be determined without an inquiry into the tenures, rights and privileges of the community; and that such inquiry would properly be united with the investigation of the extent and produce of estates before declaring the cases, to which the provisions of a permanent settlement should be held applicable—§ § 253, 254, 302 and 316.

[3] Amount of revenue assessed upon an estate.

perty of the soil or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons held interests in the same subject-matter of different kinds or degrees.

§ 43.—Under these provisions[1] the Settlement Officers have constructed for every settled estate a "*Record of Rights*" containing the most valuable information as to all rights in land existing in the North-Western Provinces.[2] Having regard to the arbitrary and discretionary nature of the Government which preceded ours, and to the rude and unsettled state of things which we found in the country,[3] it will readily be conceived that the task of ascertaining and recording rights, which is not always one of easy accomplishment, must occasionally have been followed by peculiar results, when *ascertaining* too often involved *determining* what was indeterminate; and the precision of ideas, indispensable in order to record, necessarily gave fixity by definition to what had antecedently been variable and uncertain.[4] It was exceedingly difficult to steer a safe course between, on the one hand, perpetuating variances which depended not upon principle but upon the capricious exercise of undefined authority—and, on the other hand, destroying by a general and sweeping[5] measure essential distinctions understood and acknowledged by the people,

Record of Rights.

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[1] As subsequently amended, see *post* § 164. Regulation VII of 1822 was repealed, so far as relates to the North-Western Provinces, by Act XIX of 1873, which consolidated the Revenue Law relating to those Provinces. S. 62 and the following sections of this Act contain the existing provisions as to the formation of the *Record of Rights.*

[2] It is greatly to be regretted that these documents have never been generally published, or that the task of consolidating them into one general view has never been undertaken. If the outline which follows appears meagre or imperfect to those who have greater practical knowledge than the Author, he begs that it will be remembered that his experience has not lain in the North-Western Provinces, and that the best materials for the subject, being contained in unpublished documents, have not been available.

[3] "When the country fell under our Government, we found no uniformity of system in any part of it. Every description of middlemen and every kind of opposing interest was in existence." *Minute of Lord Moira, dated 21st September* 1815—§ 45.

[4] Mr. Holt Mackenzie in his able Minute, to which I have already so often referred, says:—"It would perhaps be advisable in all general regulations to adopt the use of artificial words, barbarous as they may seem, and altogether to avoid the use of terms already in use until the uniformity of their acceptance throughout the country is fully ascertained"—and he gives, as an instance of the danger to be avoided, the directly opposite use of the word Zemindár in the North-Western Provinces and in Bengal—§§ 622 and 623. Every student of logic knows the great danger arising from the use of ambiguous terms (see Whately's Logic, Book III, s. 2, and App. I), and this danger was an extreme one, when we came to deal systematically with the state of things which we found in India.

[5] Sir J. E. Colebrooke in his Minute of the 12th July 1820 pointed out that the Permanent Settlement of Bengal was a sweeping enactment of this description by which the peasantry of Bengal were sacrificed. The Marquis of Hastings in his Minute of the 31st December 1819 says with reference to the Upper Provinces. "A general regulation, that would be efficient for the protection of the *raiyats*, could hardly be framed, were their tenures simple and uniform in different districts. So far from this being the case, there is often extraordinary diversity in the rights of individuals

and recognized by such usage as an arbitrary despotism allowed. To say that this difficult task has been accomplished wholly without mistake or error would be to assert what is not true; but it may with safety be declared that the mistakes have been few in comparison with the arduousness of the work to be done; that none have been more ready to see and acknowledge error than the Government which was led to commit it; that misconceptions were unavoidable when questions of right, almost evenly balanced, depended for their solution upon arguments of policy and expediency: that, where it was possible to do so without greater mischief, Government has ever been ready to retrace its steps and undo its own work[1] on discovering that an erroneous or inexpedient course had been pursued; and that the cardinal mistake committed in Bengal has throughout been avoided, and individual rights have been respected and protected as far as was consistent with that degree of uniformity which is indispensable for the creation and existence of system.[2]

Diversity of Tenures in Upper India.

§ 44.—As a natural consequence of the different plan pursued in dealing with the North-Western Provinces, there is now to be found in these Provinces a much greater diversity of tenures than in Bengal; and, although some of these tenures are in whole or part of modern creation, the greater number date from a period antecedent to our rule. To give a complete and accurate account of them all would lead me far beyond the limits of this work, and would indeed scarce be possible with the materials at my disposal. The following brief description of some of the most important of them may however be useful as an introduction to a subject of great interest and considerable extent and intricacy.

Talukdárí Tenures.

§ 45.—The *Talukdárs*[3] of the North-Western Provinces and Upper India correspond, as has already been pointed out, to the old *Zemindárs* of Bengal and had a somewhat similar origin. Some of them (and these have been termed *pure Talukdárs*) are descended from military leaders and other persons who formerly held a superior rank in the country. Others again (and these have been termed *impure Talukdárs*) have come into existence at a later period and under the Mahomadan rule, having been originally mere collectors of the Government revenue, and subsequently, by the favour of those in authority or in consequence of the weakness and decay of the Empire, having acquired

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inhabiting the several villages within the same district. . . . . A sweeping arrangement which shall level these distinctions, or which on the other hand shall apply to all villages this graduated scale, because it obtains in some, must involve a violation of those prescriptive rights which equity and policy should be anxious to preserve uninjured under British sway."

[1] Take for example Lord Canning's Minute of the 6th October 1858, abandoning the maintenance of the Village Sysem in Oudh and re-establishing the *Talúkdárs*.

[2] It may be observed that the mere fact of selecting any particular set of persons as the class with which the settlement is to be made is certain to have, as a result, the enlargement of the rights of that class at the expense of the rest of the community—See *Mr. Holt Mackenzie's Minute*—§§ 337-338, 349, *and* 355—*Mr. Shore's Minute of 8th June* 1789, § 173—*and Maine's Village Communities*, pp. 149—151.

[3] *Lakhiraj* Tenures in the North-Western Provinces, as in Bengal, are the highest class of rights in land. The incidents of these tenures are generally the same throughout the country.

an hereditary interest.[1] The nature of this interest was not very well defined and probably was not homogeneous in all parts of the country. In some cases the *Talukdár*, while claiming an hereditary right to stand between the Government and the village *Zemindárs*, urged no pretension to a property in the land and admitted the rights of the village *Zemindárs* as the immemorial occupants of the soil and entitled to give, sell or mortgage their lands at will. In other cases the *Talukdárs* set up extensive claims to the property of the villages included within their talúks on the plea of sale, gift or mortgage executed in their favour by the original zemindárs.[2] The mistake committed in Bengal of creating both alike absolute proprietors of the soil and ignoring all other rights was now carefully avoided, and it was pointed out to Settlement Officers that the question to be judicially disposed of in each case was whether a village was exclusively the property of the *talukdár*, or other persons possessed therein heritable and transferable properties independent of the will of the *talukdár*. In the former case the settlement was made with the *Talukdár*. In the latter case the village *Zemindárs* or persons possessing similar rights were admitted to settlement and the *Talukdárs* received a fixed allowance, generally of 22½ per cent. on the revenue collections.[3]

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[1] See *Carnegy's Land Tenures of Upper India*, Chapter IV; and Mr. *Holt Mackenzie's Minute*, §§ 395-408.

[2] "When one of the Village Zemindárs was employed by the ruling power to manage the villages in his neighbourhood and to collect the revenue as a *talukdár* or farmer, he appears to have engaged in a constant struggle for the extension of his property and, as he generally had the hand of power and a preponderating influence with the Amil, the various villages comprising the *taluk* or farm were too frequently converted by force or fraud into one estate"—*idem*.

[3] It has been contended by some that, as in Bengal every thing was sacrificed to the proprietary right of the *zemindárs*, so in the North-Western Provinces we went into the opposite extreme and restored and fostered the village system in many instances at the expense of proprietary rights fairly belonging to the *talukdárs*, as having been acquired by purchase or other just means. In Oudh we attempted to establish the village system but changed our policy after the Mutiny. In many of the Districts of the North-Western Provinces the holders of villages belonging to *talukdárs*, which had been broken up at the Settlement, acknowledged the suzerainty of the *talukdárs* as soon as our authority was subverted. This conduct amounted, as Lord Canning wrote, almost to an admission that their own rights were subordinate to those of the *talukdárs*—that they did not value the recognition of these rights by the ruling authority—and that the *talukdári* system is the ancient, indigenous and cherished system of the country. This being the case in our older provinces, where our system of Government had been established for more than half a century, during twenty years of which we had done our best to uphold the village occupant against the interest and influence of the *talukdár*, Lord Canning decided that we should retrace our steps in Oudh; and accordingly the *talukdárs* of Oudh were declared to possess a permanent hereditary and transferable proprietary right, subject to any measure which the Government might think proper to take for the purpose of protecting the inferior zemindárs and village occupants from extortion, and of upholding their rights in the soil in subordination to the *talukdárs* (*Letter No.* 6268 *of* 10*th October* 1859 *from Secretary to Government of India to Chief Commissioner of Oudh*). In a subsequent communication it was remarked that "it is obvious that the only effectual protection which the Government can extend to these inferior holders, is to define and record their rights and to limit the demand of the talukdár as against such persons during the currency of the settlement to the amount fixed by

§ 46.—The Village System, as previously described (*ante*, §§ 18-21) was in existence in the Upper Provinces when they come under our dominion.[1] Under that system the proprietors or *Village-Zemindárs* were in general so numerous a body that a settlement with them all would have been highly inconvenient. We therefore continued a practice which existed before our time of selécting one amongst the sharers whose name was entered in the public accounts as the person responsible for the collection and payment of the revenue. The proprietor who is thus a party in his own name to the contract with Government for the payment of the revenue is called the *Sádr Malguzár* or *Lumberdár*, while the co-sharers or proprietors who are not parties in their own names are called Pattídárs.[2] Under the existing law, the settlement is to be made with the proprietor, or if he have transferred possession to a mortgagee or vendee, then with such mortgagee or vendee. Where there are several proprietors, the settlement is to be made with them all jointly or with their representatives elected according to custom. When several persons possess separate heritable and transferable proprietary interests of different kinds, the Settlement Officer is to determine (1) which of such persons shall be admitted to engage for the payment of the revenue, due provision being made for securing the rights of the others; and (2) the manner and proportion in which the net profits of the estate shall be allotted to the several persons possessing such separate interests.[3]

Lumberdár, Pattídár.

§ 47.—The *Bhaiyachára*[4] tenure, which is to be found chiefly in Bundlekund, is similar to the *pattídárí* tenure save in some few particulars. The village is divided into *thokes*, and each *thoke* is sub-divided into *behrís*. The *asamí* or cultivator pays the *behríwar*, who in his turn pays the *thokedár*, who again pays the *lumberdár* or *mokhia* as

Bhaiyachára Tenure.

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the Government as the basis of its own revenue demand—See *the Oudh Estates Act, I of* 1869. Mr. Carnegy traces to five sources the proprietary titles thus confirmed by the British Government, *viz.* (1) usurpation, (2) purchase, (3) grant, (4) reclamation of waste, and (5) gift, *p.* 3.

[1] See *Lord Moira's Minute of* 21*st September*, 1815, § 82.

[2] See s. 2, Act I of 1841. *Sádr* means 'chief' and *Malguzar* means 'payer of revenue.' *Lumberdár* is derived from the English word "number"—the natives interchange the letters *n* and *l*—and *dár*, a holder, *i.e.* having a number in the Collector's Roll. *Patti* is a share—one of the many shares into which the village has been split up by the operation of the laws of inheritance, &c. *Pattidár* means any holder of a share, but has in practice been limited as above. In a *makmúl* or perfect *pattidárí* tenure the lands are held in severalty by the proprietors who are all jointly responsible for the revenue. In a *námakmíl* or imperfect *pattidárí* tenure, part of the land is held in common—and the profits of this go first to meet the revenue—and the remaining part is held in severalty. When one of the co-sharers fails to pay his quota, the others have to make it good. This accounts for the origin of a practice, which had to be stopped by legislation in Bengal (see clause 2, section 63 of Regulation VIII of 1793), namely, of demanding the rents of absconded *raiyats* from those that remained. See, as to the *pattidárí* tenure, *Mr. Holt Mackenzie's Minute*, § § 576—587; and *Lord Moira's Minute* of 21st September 1815, § § 80 – 97.

[3] See sections 43, 44, and 53 of Act XIX of 1873.

[4] *Bhaiyachára* is derived from *Bhai, Bhaiyá*=brother, and *dchára*=institution: or according to others, from *bhaiyá* and *chár*=four, indicating, according to native idiom, that all *pay alike*. An account of this tenure will be found in the correspondence given at pages 207, 219, 224, 225, 239 and 240 of *Selections from the Revenue Records of the North-Western Provinces published in* 1866.

he is called in Bundlekund. When any *asamí* fails to pay his quota, the *behriwar* makes good the deficiency by a fresh assessment on all the *asamis*, made upon the same principle as regulated the first assessment. In the event of the failure of a whole *behri*, the deficiency is levied in a similar manner from the *thokes*. All the *khudkasht raiyats* in a Bhaiyachara village are descendants of the original proprietors, and the only tenants are the *paikasht raiyats* of the neighbouring villages. The original settlers were sufficiently numerous to enable their descendants to bring the whole of the land of the village under cultivation without calling in the aid of strangers, and the minute sub-division of property brought about by the operation of Hindu Law has created a large number of petty proprietors, who all enjoy equal rights and privileges. The original assessment having been adjusted with reference to the quantity of land in cultivation at the time, the equality of allotment was disturbed by increase of cultivation in some *behris* or decrease in others. It is customary from time to time to rectify the inequality thus created by a fresh distribution of shares. The operation of this custom has led to very considerable dissension, those who have extended the cultivation being naturally unwilling to transfer the fruits of their labours to their less industrious brethren. Where there is a custom that the land or the amount of revenue payable by each sharer be periodically re-distributed or re-adjusted, the Settlement Officer may enforce such custom.[1]

§ 48.—Subordinate to the proprietors with whom the settlement is made, there are various classes of sub-proprietors or inferior proprietors whose rights are recorded in the *Record of Rights*, and the protection of which is part of the duty of Settlement Officers. This protection is usually afforded by the formation of a sub-settlement on behalf of the proprietors with them, when their interest extends to the whole mahál or estate, and is heritable and transferable. They are bound by this sub-settlement to pay to the superior proprietor, with whom the settlement is made, an amount equal to the Government revenue together with the share of the profits of the mahál to which the Settlement Officer has declared the superior proprietor to be entitled. Occasionally a *settlement* is made with the inferior proprietor, the only difference in this case being that he pays the amount into the Government Treasury, whence his share of the profits is paid to the superior proprietor.[2] Where the subordinate rights are not of such a nature as to entitle their possessor to settlement, the protection may be afforded by a sub-settlement or in such other way as shall maintain the sub-proprietors in the enjoyment of, or of an equivalent to, their rights. When these rights are to receive from the tenants any money-payment or portion of the agricultural produce, this is accomplished by assigning in lieu thereof the proprietary right in a certain portion of the mahál, the profits of which are, in the opinion of the Settlement Officer, equivalent to such payment or portion.

Sub-proprietors or Inferior Proprietors.

§ 49.—Inferior or sub-proprietary[3] rights are known by various names in different parts of the country. They are traceable to purchase; to relationship or connection

Some sub-proprietary Tenures.

[1] Section 47 of Act XIX of 1873.

[2] Sections 54 and 55 of Act XIX of 1873.

[3] In what immediately follows I have borrowed very largely from Mr. Carnegy's little work on *Land Tenures in Upper India*.

with the original stock; and to former proprietorship lost by force or under the pressure of necessity, the ex-proprietor having retained the whole or a portion of his lands on more or less favourable terms under the new proprietor. What happened in the case of proprietors, came also to pass in the case of sub-proprietors, under whom was thus formed a further class of sub-proprietors in the second degree, and occasionally this quasi sub-infeudation extended to the third and fourth degree.[1] Mr. Carnegy gives the following list of sub-proprietary titles found in the Province of Oudh. Several of these included in the list are also commonly found in the districts of the North-Western Provinces—*viz.* 1, Pakhtadári; 2, Dídárí; 3, Sír; 4, Naukár; 5, Shankalap; 6, Birt; 7, Baikitát; 8, Baghát; and 9, Biswí. The first seven are heritable and transferable. The Baghát tenure is subject to special conditions, and the Biswí tenure is altogether contingent. The term *pakhtadari* has come into existence under British rule. In former times when an ex-proprietor entered into an engagement for the revenue of his village at a *fixed* amount, he was said to hold *pakka.*[2] He was responsible for the loss and received the profit, and this whether he collected himself or with the aid of the Government officials. When he merely engaged to collect and pay into the Government Treasury, receiving a commission on the collections and having no interest in the profit or loss, the arrangement was termed *kachcha.* It was our policy to consider that person to be in possession of a village who was responsible for the loss and received the profit. Thus the *pakhtádár* or person who held *pakka* came to have certain rights, which we admitted and acknowledged though restoring the former proprietor;[3] and the term *pakhtadárí* came to be applied to an intermediate tenure between the proprietor and the cultivator.

Pakhtadarí.

§ 50.—In the case of transfers, voluntary or involuntary, it was a common practice for the transferree to assign a portion of the land in perpetuity to the former proprietor for his subsistence, and this was called *Dídárí.* The assignment, which was usually in writing, might be of one or more villages or merely of a few fields. When a whole village is held under this tenure, the sub-proprietor invariably enjoys all village privileges and dues. *Dídárí* grants were in most cases originally rent-free, but were sometimes assessed with a low quit-rent termed *barbasti.*[4] The land, which was retained

Dídárí.

[1] Just as the principle of the Patní tenure in Bengal was carried down to *dar-patnis*, or *patnis* in the second degree—(*dar*=within or under); *sepatnis* or *patnis* in the third degree (*se* = three) and even still lower.

[2] *Pakka* means "ripe," "mature," "complete," "settled". *Kachcha* means "unripe," "immature," "incomplete," "unsettled."

[3] Mr. Carnegy seems to think that the *pakhtadar* was always an *ex-proprietor*, and that the antithesis in the use of *Pakká* and *Kachchá* lay in the existence or non-existence of *rights.* May it not have lain in the amount of revenue being fixed and the engager being responsible therefor or the contrary being the case? A person having some rights in the village no doubt commonly made the *Pakka* engagement, but a stranger may also occasionally have engaged. He thinks that the term *mustajir* was always applied to strangers, who were never said to hold Pakká: but was this use of the latter word strictly adhered to, when it developed into *Pakhtadár* amidst the changes and consequent confusion that came upon the country.

[4] As to *Mandídarí* tenures, see *Raní Bankat Narseya* v. *Gauri Singh and another*, 2 N. W. P., H. C. R., 369.

by a proprietor in his own possession and cultivated with his own ploughs was termed Sír.[1] When a proprietor parted with his property, he not unusually kept possession of his Sír land, at first perhaps without payment of rent: but afterwards rent was certain to be levied from him, generally however at a lower rate than that paid by his neighbours. Sub-proprietary *Sír* originated also in grants to the junior members of the proprietary family. Sír.

§ 51.—*Nankár*[2] was an assignment of land or revenue for subsistence, consisting sometimes of one or more entire villages, sometimes of a portion only of a village. It was made in some instances to proprietors, in other instances to persons having no proprietary right, such as Kanungos, Mukaddams, Chaudhrís, Kazís, who were generally however servants of the State; and it was doubtless in this capacity that the allowance was made to Zemindárs. Sub-proprietary Nankár is usually an assignment like *Didárí*, but differing from it in this, that not *land* but a portion of the rental in *money* was the subject of the assignment. Sometimes a fixed sum was given, and sometimes a fractional share of the *then* rental. In the latter case, however, the item remained fixed and not subject to enhancement or abatement. The amount is either paid to the recipient, or he is allowed an equivalent remission from the rent of any land held by him as a cultivator. Nankar.

A *Shankalap* tenure consisted either of a whole village, or of lands forming a portion of a village. In the former case, a sum was paid down by way of fine when the deed was executed, under which the village was granted as a sub-tenure at favourable rates.[3] In the latter case the poorer outlying or uncultivated lands were made over for a money consideration. A portion of these was to be cultivated subject to the payment of a rent gradually increasing until a stipulated maximum was reached in a certain number[4] of years. The rest was left rent-free for the village site, groves, gardens and similar uses. Shankalap.

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[1] *Sír* is the Sanscrit word for a plough. *Sír* land may now be created by continuous cultivation for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour, see s. 5, Act XIX of 1873. In Bengal it is called *nijjote* (own cultivation), *Khas-Khamár* or *Khamar*. No right of occupancy can be acquired in such land let on lease for a term, or year by year. Apparently if it is held or cultivated under any other tenancy, a right of occupancy can be acquired in it as in other land—(*Gaur Harú Singh* v. *Behárí*, III B. L. R. Ap. 138; *Sheikh Ashraf* v. *Ram Kishore Ghose and another*, XXIII W. R. 288).

[2] *Nankar* is derived from *Nan*=bread and *Kar*=business—See *Appendix* 10 *to Mr. Shore's Minute of 2nd April* 1788, and *Selections from the Revenue Records of the North-Western Provinces, p.* 189. Nankar is sometimes improperly confounded with *malikana* which was allowed to *proprietors* only. When a proprietor was removed from the management of his estate. *malikana* was allowed to him, but Nankar was usually withdrawn. "Malikana is the unalienable right of proprietorship, but Nankar depends upon fidelity and attachment to the state and a due discharge of the public revenues" *Answers of Gholam Hosein Khan, Appendix No.* 16 *to Mr. Shore's Minute of 2nd April* 1788: *see also Lord Moira's Minute of* 21st *September* 1815, §§ 124—132.

[3] This is very similar to a *Patní taluk* in Bengal.

[4] Somewhat similar to the *Jangalburi* (*buri*=cutting) tenures of Bengal. For a year or two no rent was asked. Then a low rent was paid and this gradually increased (*rassadi*) as a greater quantity of land was brought under cultivation.

§ 52.—*Birt*[1] tenures are of two kinds, *purchased* and *conferred*. The former generally originated in an assignment for money by a proprietor, who wished to have waste brought into cultivation or was compelled by necessity to raise money on his cultivated land. This tenure is always sub-proprietary, held under the proprietor who stood between the holder and the Government. It is heritable[2] and transferable, and the annual rent is fixed in perpetuity. Sometimes part of the land was to be held rent-free and the rest of it was to be subject to enhancement. *Conferred birt* tenures were originally eleemosynary, being sometimes in the nature of life pensions and according to usage resumable at the donor's pleasure. In our first dealing with these tenures, no distinction was drawn between the two classes. *Baikitát*[3] is a tenure similar to *birt*, but is generally limited to small patches of land containing one or two fields.

Birt.

Baikitát.

§ 53.—*Baghát*, gardens, orchards, groves belong either to the proprietors, or ex-proprietors, to the holders of intermediate tenures, or to tenants. The title of all except the last extends to the land as well as to the trees. The rights of tenants[4] in orchards planted by them depend upon the arrangements made with the proprietors or sub-proprietors under whom they hold. Generally no rent is taken and the tenants are repaid for their labour by being entitled to eat the fruit, gather the dry wood, and cut down a tree occasionally for home use, such as roofing a house or making farming implements, the landlord being entitled to claim fruit on festivals and to fell an occasional tree when he requires wood. *Biswi*[5] is a tenure which had its origin in mortgage. When a whole village or fractional portion of a village was mortgaged under native rule, the mortgagee usually obtained possession and was admitted to engage with Government for

Boghat.

Biswí.

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[1] *Birt* from the Sanscrit *vritti* means 'maintenance,' 'support.' Purchased *birt* tenures are similar in their origin to *Patni taluks* and scarcely differ from the first kind of *Shankalap* tenures. In one other respect this tenure, as it exists in Goruckpore at least, resembles the *Patni taluk* of Bengal in this, namely, that the proprietor or superior landlord is entitled to a fine on every transfer by sale, gift or inheritance, and the formality of his consent to all such transfers—See *Report of the Board of Commissioners to Lord Minto, dated 5th July* 1808, § 12, and Reg. VIII of 1819, s. 5.

[2] As to a *Máfi* Birt tenure being heritable, see *Mahendra Singh* v. *Jokha Singh and others*, (decided by the Privy Council), XIX W. R. Civ Rul. 211.

[3] From *Bai* = sale, and *Kita* = a share, piece. It may be observed that all these tenures have their origin in a practice common not only to different parts of India, but to the East and West, *viz.* the practice of r ing money by parting with a greater or lesser fragment of what constitutes the highest proprietorship or aggregate of rights in land in the particular community. A perpetual lease at a fixed rent granted for a sum of money paid down was thus a form of alienation which came naturally into use in both societies. See *William's Law of Real Property*, 6th Ed., p. 37, for the rise of a similar practice in England. When the Barons required money for the Crusades, their land was the only available means of raising it.

[4] In Bengal a distinction is made between trees that are *Swarúp*, *i.e.* planted by the tenant, and those that are *pororúp*, *i.e.* planted by others before he came on the land. He may cut down and sell the former but not the latter, *i.e.* according to usage apart from contract.

[5] *Biswi* is derived from *Biswa* = a twentieth part, but usually applied to the twentieth of a bígha. No doubt the calculation of the *Parmsana* was made in old times as so many twentieths, and the name remained, although the principle of calculation was altered.

the revenue. When he obtained possession but was not admitted to engage for the revenue, he deducted the interest on the loan from the rental of the land and paid the difference, termed *parmsáná*, to the mortgagor, who was responsible for the revenue. When, according to our rules, redemption was barred, the settlement was made with the mortgagee as proprietor. In the case of lands less than a fractional share of a village, which under native Government always remained attached to the parent village, the *parmsáná* was paid in the same way to the mortgagor : and when redemption was barred, the mortgagee, *biswidár*, became the holder of an intermediate title, the *parmsáná* or quit-rent being generally made equal to the Government revenue *plus* five per cent. Mâfi[1] grants were made by proprietors to Bramins, Bhats, Faḳirs and such like for religious services or through religious veneration. They were hereditary though not originally transferable. Even when transferred, they were not resumed, and so usage made them transferable in course of time. *Marwat* grants were grants of a little land rent-free as pensions to the heirs of retainers killed in the service of the proprietor. Mâfi. Marwat.

§ 54.—*Jagírs* were grants of lands to retainers still in service in lieu of wages. When granted by the Emperor, they were assignments not of the land, but of the revenue,[2] and were made as an appendage to the dignity of *mansub*, a kind of nobility conferred for life, and revocable at the Emperor's pleasure. The *Mansubdár* was supposed to command a body of horse. There were sixty-six grades of the rank, varying according to the number of horse. This number was however merely nominal, and the personal pay of the Mansubdár though regulated thereby was distinct from that which he received for the effective horse which he was obliged or allowed to maintain. *Jagírs*[3] were of two kinds, conditional and unconditional. *Conditional* Jagírs were granted generally to the principal servants of the Emperor in order to meet the expenses of a particular office : and these were held only so long as office was retained. *Unconditional* Jagírs were independent of any Jagírs.

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[1] *Mâfi, mâfi* means 'forgiven,' remitted, *i.e.* the rent or revenue of which was remitted, these grants being generally rent or revenue-free. The term is not, that I am aware of, used in Bengal, where land granted to Brahmins is called *Brahmottar* and land granted to an idol is called *Dewittar*. *Piran*, from *pir* = a 'saint,' is land granted to a (Mahomadan) holy man for his support, or for keeping up the tomb of a deceased saint.

[2] It is important to bear this in mind. That the ownership of the soil was not in the sovereign is proved by a variety of arguments. One of these is remarkable, being drawn from the fact that the Emperors purchased land when they wanted it. Aurangzíb purchased the parganas of Lúndí Pâlan, &c. in the vicinity of Delhi. Akbar purchased lands for the forts of Akbarabad, and Illahabad ; Shah Jahan for the fort of Shah Jahanabad ; and Alamgír for the fort of Aurangabad and for mosques. When the Jagirdars got possession, they paid *malikana* to the zemindárs. There is a native Hindu saying that "the land belongs to the zemindár and the revenue to the king :" and according to Mahomadan law the sovereign has a right of property in the tribute or revenue : but he, who has the tribute from the land, has no property in the land (see authorities quoted in Appendix No. 12 to Mr. Shore's Minute of 2nd April 1788).

[3] There were no hereditary dignities in the Mogul empire. See, for a full account of these Jagírs, *Mr. Shore's Minute on the Rights and Privileges of Jagirdars, dated 2nd April* 1788, from which the above account is taken.

office and were personal grants for the maintenance of a dignity, a suitable number of attendants and the effective troops which the mansubdár or jagírdár was bound to have in readiness. These grants were for life only. If the lands produced more than the Mansubdár's allowance, which was always fixed, he was bound to account for the surplus (*taufir*). There were few jagírs in Bengal. In Bahár a large number were created in the time of Sháh Alam[1] and of his immediate predecessor during the anarchy and decline of the Mogul Empire. In many instances, owing to our want of information, persons claiming by right of inheritance succeeded to jagírs, contrary to the constitution of the Empire; and thus what was originally a mere life grant has become an estate of inheritance.

§ 55.—The Great Rent Act (X of 1859) originally extended to the North-Western Provinces; but it was soon found that its provisions were not equally applicable to these Provinces and to Bengal. It was amended by Act XIV of 1863. But both Acts were repealed by Act XVIII of 1873, the existing "North-Western Provinces Rent Act."[2] The substantive provisions of this Act are generally similar to, though differing in some details from, those of Act X of 1859. Persons who in *permanently settled districts* possess a permanent transferable interest in land intermediate between the proprietor of a *mahál* and the occupants, and who hold at a fixed rent not changed since the time of the permanent settlement, are entitled to continue to hold at such rent.[3] Tenants in districts or portions of districts *permanently settled* who hold lands at fixed *rates* of rent not changed since the permanent settlement have a right of occupancy at those rates and are called "*tenants at fixed rates.*"[4] In the case of both these classes, when proof is given that the rent has not been changed for a period of twenty years before the commencement of the suit, it is to be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown or unless it be proved that such rent was fixed at some later period.[5] The rights of tenants at fixed rates are by law declared to be *heritable and transferable.*[6] Their rent is not liable to enhancement[7] except on the ground that the area of the land in their holding has been increased by *alluvion* or otherwise and they can claim abatement on the ground that such area has been diminished by *diluvion* or otherwise.[8]

Middlemen and Tenants holding at fixed Rates.

Twenty years' Presumption.

§ 56.—"Ex-proprietary tenants" are persons who lose or part with their proprietary rights in an estate or mahál, but who retain the *sír* land held by them in such mahál. The law gives them all the rights of *occupancy tenants* in such *sír* land held by them at the date of losing or parting with their proprietary rights, and further enacts that their rent

Exproprietary Tenants.

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[1] When he invaded Bahár.—See *ante* § 7.

[2] This Act does not apply to Oudh, the corresponding provisions for which Province are contained in Act XIX of 1868.

[3] Section 4.

[4] Section 5.

[5] Section 6.

[6] Section 9. They are not necessarily transferable in the Lower Provinces.

[7] Section 11.

[8] Section 18.

shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quantity and with similar advantages.[1] "Occupancy-tenants" are those who have actually occupied or cultivated land continuously for twelve years; and to such the law gives a right of occupancy in the land so occupied or cultivated by them. The occupation or cultivating of his father or other person from whom a tenant *inherits* is deemed the occupation or cultivating of the tenant. No right of occupancy can be acquired (1) in land held from an occupancy tenant, an ex-proprietary tenant or a tenant-at-fixed rates; (2) in sír land; or (3) in land held in lieu of wages. When a tenant not having a right of occupancy holds under a written lease, the necessary period of twelve years does not begin to run until the expiry of the term of the lease.[2] A right of occupancy is not transferable by grant, will, or otherwise except as between persons who have become by inheritance co-sharers in such right. It descends however in the regular course of inheritance, as if it were land, but no *collateral* relative of the deceased who did not share in the cultivation of the holding during his lifetime is entitled to inherit.[3]

Occupancy tenants in the North-Western Provinces.

The rent of exproprietary or occupancy tenants is liable to enhancement only (1) by a written agreement registered under the Registration Act or recorded before the village *Patwári* or the *Kánúngo*, (2) by order of a Settlement Officer passed under the law for the time being in force, or (3) by an order made under the Rent Act. Such last mentioned order may be made when the rent has not been already fixed by an order of a Settlement Officer under the Land-Revenue Act, or by an order under the Rent Act, or where such an order has been made but the term thereof has expired—on the ground (1) that the rate of rent paid is below the prevailing rate payable by the same class of tenants for land of similar quantity with similar advantages; (2) that the value of the produce or the productive powers of the land have increased otherwise than by the agency or at the expense of the tenant; or (3) that the quantity of land held has been proved by measurement to be greater than the quantity for which rent has been previously paid. In the case of *exproprietary* tenants the enhanced rent, like the old rent, is to be four annas in the rupee below the prevailing rate for tenants-at-will.[4] The tenant may, under similar conditions as to previous orders fixing the rent, apply for abatement on the ground (1) that the area of the land held by him has been diminished by diluvion or otherwise; or (2) that the value of the produce or the productive powers of the land have decreased by any cause beyond his control. When the rent has been fixed by an

Enhancement.

Abatement.

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[1] Section 7. See, as to Oudh, section 5, Act XIX of 1868, which gives a heritable but not a transferable right under somewhat similar circumstances.

[2] Section 8. The contrary is the law in Bengal—See *Pandit Sheo Prakash Misser* v. *Ram Sahai Singh*, VIII B. L. R. 156; XVII W R. 62.

[3] Section 9. This apparently excludes evidence of a custom, to transfer, which is admissible in Bengal—See *Unapúrna Dasi* v. *Umacharan Das*, XVIII W. R., 55; *Sriram Bose* v. *Bissonath Ghose*, III W. R. Act X, Rul. 3; *Ajúdhya Persad* v. *Emam Bandi Begam*, B. L. R. Sup. Vol. F. B. 725; *Narendro Narain Rai* v. *Eshan Chandra Sen*, XIII B. L. R. 274, and XXII W. R. 22; and *Nankú Rai* v. *Mahabir Persad*, III B. L. R. App. 35.

[4] Section 13. See for Oudh s. 32, Act XIX of 1868, which somewhat differs.

order under the Rent Act, no order for enhancement or abatement may be made (1) until the expiry of ten years from the date on which such order took effect; or (2) until the revision (before confirmation) of the assessment of the district by order of the Local Government; or (3) until the conclusion of the period of the settlement of the District—whichever of the three events occurs first.[1] When the rent has been fixed by order of a Settlement Officer under the Land Revenue Act[2] or by an order under the Rent Act, the landholder may apply to enhance such rent during the currency of the term for which the rent has been so fixed on one of the following grounds and on no others: *viz.*—(1) that the area of the tenant's holding has been increased by alluvion or otherwise; (2) that the productive powers of the land have, *since the date of the order*, increased otherwise than by the agency or at the expense of the tenant. Similarly the tenant may apply for abatement of rent on one of the following grounds and on no others: *viz.*—(1) that the area of the land has been diminished by diluvion or otherwise, (2) that the productive powers of the land have decreased from any cause beyond his control.[3]

Determination of Tenant's Status.

§ 57.—Any tenant may have it determined by the Collector or Assistant Collector whether he is tenant at fixed rates, an ex-proprietary tenant, an occupancy tenant, or a tenant without a right of occupancy.[4] A tenant without a right of occupancy is a tenant-at-will. He is not, however, liable to pay rent in excess of that paid during the previous year, unless there have been an agreement to this effect recorded by the *Patwári* or *Kánúngo*.[5]

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[1] Section 16. See as to Oudh s. 33, Act XIX of 1868, which fixes the first of the above mentioned periods at *five years*.

[2] See sections 70, 71 and 72 of Act XIX of 1873.

[3] Section 17. See for Oudh s. 19, Act XIX of 1868. It may be remarked that the intention of section 16 of the North-Western Provinces Act is not very clear. Sections 16 and 17 equally apply to a case in which the rent *has been fixed by an order under the Act*. Section 16 bars the operation of sections 13, 14 and 15 until the expiry of one of the three periods mentioned therein, *subject however to the provisions of section* 17. Therefore before the expiry of any of those periods, enhancement or abatement of rent may be asked on any of the limited grounds mentioned in s. 17. But section 17 allows enhancement or abatement, on these limited grounds only, throughout the whole term and therefore restricts the operation of sections 13, 14 and 15 during the whole term as well as during the portion of it covered by s. 16 Suppose, for example, that the rent were fixed for a term of twenty years by an order under the Act, and that the revision of the assessment or the conclusion of the settlement (the two last events in s. 16) did not take place within that time, then by section 17, enhancement or abatement could take place during the twenty years, only on the limited grounds therein contained. Section 16, being subject to section 17, allows enhancement or abatement on these limited grounds within the first ten years (first event), and bars the operation of the more general grounds of enhancement and abatement in sections 13—15 only for ten years. But section 17 cuts down their operation for the whole twenty years to the limited grounds therein contained. It therefore does more than section 16 does; and section 16 is superfluous. Section 17 can however apply only where there is a *term*, and it may be that section 16 was intended to operate where there is no term.

[4] Section 10.

[5] Section 21. There is no corresponding provision for Bengal.

§ 58.—Tenants at fixed rates, ex-proprietary tenants, occupancy tenants and tenants holding under an unexpired lease can be ejected only in execution of a decree under the Rent Act. No such tenant can be ejected or his lease forfeited on account of any act or omission not detrimental to the land or inconsistent with the purpose for which it was let; or which by law, custom or special agreement does not involve the forfeiture of the lease.[1] He may be ejected if a decree for arrears of rent remain unsatisfied at the close of the year, and he omit for fifteen days after notice to pay the amount due under such decree.[2] A tenant not having a right of occupancy or a tenant holding over after the expiry of his lease, is entitled to a notice to quit; and, failing to contest his liability to ejectment, may be ejected.[3] Any tenant ejected under the Act is entitled to his growing crops or other ungathered products of the earth growing on the land at the time of his ejectment, and to use the land for the purpose of tending and gathering them.[4] He is also entitled to compensation for improvements made by him, in consequence of which the annual letting value of the land has been and continues to be increased.[5]

Ejectment.

Way-going Crops.

Compensation for Improvements.

§ 59.—This chapter may well be closed with some remarks upon the subject of Rent in India. It has been said that rent is a British creation, and this is certainly true to the extent that the fund, from which much of the present rent is paid, is the fruit of the peace which the British have kept, and of the moderation of their fiscal demands.[6] It will however have appeared from what has already been presented to the Reader that the germ of rent existed in the old Village Communities, when strangers were allowed to cultivate on condition of giving the Government share of the produce and *an additional share* for the use of the zemindár or other person who had rights of ownership in the land and by whose permission they cultivated. This *additional share* was rent—rent paid in kind, as all rent must have been paid before the use or general use of money.[7] It would be pro-

Subject of Rent in India.

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[1] Section 34. These provisions are not in the Bengal Act, but the decisions of the Courts have in some respect supplied their place.

[2] Section 35.

[3] Sections 36, 37, 38, 39 and 40.

[4] Section 42. See *Wigglesworth* v. *Dallison*, 1 Smith's Leading Cases, 520; and Smith's Law of Landlord and Tenant, 2nd Edn. pp. 350—357. These very necessary provisions are wanting in the Bengal Act.

[5] Sections 44—47. See for Oudh, sections 22—26 of Act XIX of 1868. Similar provisions are also wanting in the Bengal Act. Elaborate provisions for compensation to tenants will be found by those desirous of studying the subject, in sections 1—21 of the 33 and 34 Vic., cap. 46, passed in 1870 for Ireland.

[6] *Maine's Village Communities*, page 180.

[7] Mr. Edward Colebrooke, writing in 1819 and epitomizing the reports of fourteen Collectors in the North-Western Provinces, says—"It will appear that for the most valuable articles of culture in all the districts and for every sort of produce in some districts money-rents obtain universally, and that *the tenures in kind under the several denominations of Umli, Bhauli and Bhattai prevail only for the inferior sorts of grain, and in those districts or those particular parganas, where from the nature of the soil, the want of means for artificial irrigation, and the consequent dependence on the uncertainty of seasons, the tenants are not disposed to subject themselves to a certain payment* . . . . . The proportion of the crop whether taken by the landholders in kind or commuted for its value in

fitless to attempt to conjecture what might have been the possible development of this germ of the principle of rent, if Hindú society had not suffered the effects of a Mahomadan invasion. The alteration of system which was the immediate result of that invasion, and of the consequent setting up of a new Government, prevented any such development. The system of the Mogul Government and that prescribed by the Mahomadan law recognized only two persons as having a fixed interest in the soil, *viz.* the sovereign and the cultivator, and did not admit as a principle any other general limit to the Government demand than the amount which the cultivators could afford to pay. To leave a rent therefore to any intermediate class standing between the Government and the cultivators was no part of the Revenue constitution, which immediately preceded our rule.[1] Such were not, however, the principles of our system. In dealing with Bengal, we sacrificed every thing in order to create a class of *Receivers of Rent;* and, if we did not go quite the same length in settling the provinces subsequently acquired, we certainly gave the tenderest consideration to the claims of all who asked to occupy the place of this intermediate class. If we did not create the principle of rent, we certainly restored it to the same, if not to a more forward stage of development than that, in which the Mahomadan invasion found it.

Competition Rent did not exist in India.

§ 60.—But there is one sense in which it is absolutely true that rent is a British creation. Competition rent—that rent of which the principle is explained by Western Political Economists, had no existence in India before British rule; and, so far as it has yet come into being,[2] it is due wholly to the influence of British Government and to results

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money, is regulated by custom which varies according to the nature of the soil *from one-fourth* and less in lands newly re-claimed *to one-half* in lands under full cultivation . . . . . With regard to the *nukdi* tenures or money rents, they are found to be regulated in only few parts of these provinces by established *pargana* rates. In general they appear to be annually adjusted by mutual agreement. The tenants themselves are stated to be averse from binding themselves to a fixed payment beyond the current year in consequence of the uncertainty of the seasons."—*Letter to Governor-General, dated 5th January* 1819. The same aversion to bind themselves down to a fixed agreement was found amongst the *raiyats* in Bengal—See *Mr. Shore's Minute of* 28*th June* 1789. In the Rai-raiyan's answers (*Appendix No.* 17 *to Mr. Shore's Minute*), it is stated that in the *Subah* of Bengal, the *raiyats* always paid their rents in money—that the crop of the *khamar* land is usually divided between the *Zemindárs* and *raiyats* in equal proportions, though in some places the latter get more and in others less; but for this fluctuation there is no specific rule; that in the *Súbah* of Bahár custom has established the share of the zemindár at 22½ seers; and that of the *raiyat* at 17½; but variations from these proportions occasionally occur. Even when rents were agreed to be paid in kind, it was very common for the zemindár to commute his share for a money payment, the commutation price being adjusted while the crops were still on the ground—*Mr. Holt Mackenzie's Minute*, section 428. Rents in kind are not uncommonly paid in India at the present day. The North-Western Provinces' Land Revenue Act, XIX of 1873, empowers Settlement Officers to commute these rents for a fixed money-rent (sections 73—74). The Oudh Rent Act, XIX of 1868, contains similar provisions (section 28).

[1] See *Mr Holt Mackenzie's Minute*, sections 317 and 318.

[2] Competitive rents now exist in Bengal to a considerable extent Such land as is not in the possession of raiyats having a right of occupancy is more or less competed for. In some districts the competition is tolerably keen. Raiyats having a right of occupancy are also more and more

which have accrued therefrom. That state of things in which land is regarded merely as one of the many modes of investing capital, and is competed for up to the point at which it yields a profit at least equal to that which can be obtained from other objects of investment, never existed in India. At no period antecedent to our rule did population reach a point which rendered it necessary to cultivate the worst land and resort to improved means of agriculture in order to raise from the soil food sufficient to feed the people of the country. In favourable seasons the land with little labour gave them enough and more than enough for the year's supply. Seldom looking further, or perhaps careless, if indeed they were permitted, to accumulate a store which might tempt the cupidity of those in authority—when the season was very unfavourable and famine came amongst them, they regarded the visitation as a decree of Fate, and passively endured as inevitable what they never imagined that human polity could alleviate or prevent. There was no competition for land as a means of creating capital out of capital, or of raising additional food to feed an increase of population, or provide against years of scarcity. There was more land than there were men to till it or flocks to graze upon it: and the *raiyats*, who were pressed in one place beyond what they would or could bear, removed to another place where the interests of a new master were the most effectual barrier to oppression. Thus, if there were competition at all, it was competition amongst the zemindárs for raiyats not amongst the raiyats for land. But in truth there was no competition, and such removals were few and exceptional.

§ 61.—The share of the produce to be taken by the ruling power or by those who stood in its place over the cultivators was originally fixed by the Hindú Code at *one-sixth*: but when those who took were the only persons who had the power to set limits to what was to be taken, this proportion was not long maintained, and *one-fourth*, *one-third*[1] and finally *one-half*[2] became the normal share of the Ruler. Even this proportion was exceeded, when the authority which prescribed these bounds ceased to be operative, and individual rapacity acknowledged no limits save the powers of endurance of those upon whom it preyed. But whether the State itself or those who usurped its functions determined the proportion which was to be taken from the cultivators, it is clear that *they* had no voice in fixing this proportion, and that it was settled not by mutuality of

No such thing as rent under Mahomadan Rule.

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getting into the habit of sub-letting; and thus a fresh class of petty middlemen, ignorant and useless, if not absolutely pernicious, is being created. Whatever be the merits of the Permanent Settlement, it is obviously unfair to the Zemindárs that this class should in this way appropriate the increase. It is further impolitic, because it tends to rack-renting and the creation of wretched cottiers. It would not be unreasonable to enact that any raiyat *regularly sub-letting* his land should forfeit his right of occupancy. In *Bibi Sahadwa and others* v. *M. Smith*, XII B. L. R. 82, it was held that, where a raiyat having a right of occupancy transferred his rights, the Zemindár could sue the transferree to recover possession of the soil. Leasing is only another form of assignment. There are many arguments in favor of the policy, which protected the actual cultivator. there are none that I know, which would justify his conversion into a petty middleman.

[1] This was the proportion claimed by Akber.

[2] According to a *farmán* of Aurangzíb.

contract, but by arbitrary power, to the behests of which there was no alternative but slavish submission. No part of what was thus taken by or on behalf of the State was *rent*, and there is no doubt that no such thing as *rent* existed under the Mahomadan rule.

Rent in Bengal under the British Government.

§ 62.—The system introduced by the English was avowedly directed from the very first to the creation of a class of rent-receivers.[1] The Permanent Settlement of Bengal, in leaving the majority of the tenant class at the mercy of the new proprietors with vague promises of future protection, afforded a good opportunity for putting up peasant holdings to competition and creating competition rents, had such a creation been consonant with the ideas and requirements of Indian society. But the conditions of the country were in no way favourable to such a creation. Neither tradition nor custom suggested that the opportunity should be turned to advantage in this way. It was indeed turned to advantage, but in a manner wholly conformable with native ideas and previous usage. Zemindárs were necessarily invested with large powers over their *raiyats* in order to compel payment of rent[2] and so be themselves able to discharge the Government revenue. They could by law have them seized and brought to the *zemindárí* Kachahrí.[3] When the law gave such large powers, it may easily be imagined that the exercise of them was not always confined to the exact limits set by law, more especially when those, over whom they were exercised, having been long accustomed to despotic authority and unresisting dependence, were at first ignorant that any degree of liberty had been conferred upon them and were long in learning the exact measure of their newly created rights. In such a state of things the zemindárs or their agents found little difficulty in exacting from the raiyats by *abwábs*[4] and other means a very considerable portion of the surplus which was the

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[1] The Permanent Settlement of Bengal was notoriously so directed; all settlement proceedings in the Upper Provinces, if not expressly aimed at accomplishing this single end, at least assumed it as a thing to be accomplished. Mr. Holt Mackenzie in a note to his able Minute says:—"The moral and political advantages derived from the existence of rent-holders is a separate question; they are indeed incalculable, where, as in our country, they give a body of men to manage almost the whole internal government of the country and to secure its political and civil freedom. We may hope that the landholders of this country may gradually be brought to contribute in their degree to the same ends here."—We legislated from the beginning for the *recovery of rent*.

[2] See Reg. VII of 1799 and *post*.

[3] This power existed down till 1859, when it was taken away by Act X of that year.

[4] *Abwab* is the plural of *bab* = a head, an item; and means "items," or "miscellaneous items," *i.e.* of taxation. When the Mogul authorities desired to levy an additional sum, the usual way of accomplishing their object was, not by increasing the original amount of revenue agreed for with the zemindár or farmer, but by imposing a tax for some particular purpose, which tax was levied in a fixed proportion to the original *jama* or revenue. The purposes or pretexts, for which these miscellaneous taxes or *abwabs* were imposed, were so numerous that it would be difficult to give a complete list of them. A few will suffice as an example: *Chauth Maratta*, in order to pay the tribute of *one-fourth* of the *jama*, levied by the Mahrattas; *abwab faujdari*, or fees for the support of the chief Police Magistrate and administration of criminal justice—*abwab rahdari*, for the repair of roads, which never were repaired—*zar mathaut* consisting of four items, *viz.* presents at the Punya or annual settlement of the revenue; charge for *khilats*, or honorary dresses for the members of Government; charge for repairing the banks of the river at Múrshedabád; and fees to the Nazir who commanded the escort which

natural result of peace, prosperity, and progress. The law had however declared *abwâbs* and other such means to be illegal: and in the course of half a century, when a new generation had arisen, to whom the oppressions of the Mahomadan amils and farmers were but hearsay, while the diffusion of knowledge taught them present liberty, the *raiyats* came gradually to know their rights. Prompted by self-interest, they threw off the old veneration for custom, and, with the assistance of the numerous Courts constituted all over the country in order to bring justice home to every man's door, they resisted what was illegal, not so much because it was illegal as because a conflict of interests had arisen, which sooner or later must have brought resistance; and this resistance, if not accelerated, was certainly strengthened by finding the law on its side.

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brought the collections to headquarters—*khas navisi*, fees for the Government accountants—*sarf-i-sikka*, an impost to cover the loss on the exchange of coins of different mints. The zemindárs in their turn levied from the raiyats all the *abwabs* that they themselves had to pay, generally contriving to make a profit out of the transaction; and they further imposed additional *abwabs* of their own devising and for their own benefit, *e g. abwab mehmani* to defray the expenses of the zemindár on his visiting the village; *haldâri*, a tax on marriages. Any unusual occurrence, a Governor's visit or a petty war on some distant frontier was and is made a pretext for imposing a new cess. One ingenious zemindár has within the last few years made the construction of a *line of telegraph* a ground for a fresh contribution, which, the raiyats were taught to believe, went to the maintenance of the posts and wires. In the district of Jessore, before the legislation of 1793, out of fourteen articles imposed upon the zemindárs by the Nazim, twelve were levied from the raiyats, and *nineteen other articles in addition.* The cesses levied from the raiyats were variously regulated according to the number of months or by other distinctions, but were generally calculated at so much in the rupee, the first on the original (*asil*) rent, and subsequent ones on the *asil* plus the previous cesses. The zemindárs and other proprietors, being themselves exempted by the permanent settlement from the imposition of any new *abwabs* or cesses to Government were directed in concert with the raiyats to revise the former cesses levied upon the latter, and to consolidate the whole with the *asil* into one specific sum, after which they were strictly forbidden to impose any new *abwabs* upon the raiyats under any pretence whatever. Every such exaction was to be punished by a penalty equal to three times the amount imposed for the entire period of the imposition (see ss. 54, 55, Reg. VIII of 1793; s. 3, Reg. V of 1812, which declares all stipulations for the payment of *arbitrary and indefinite cesses* to be null and void; cl. 1, s. 9, Reg. VII of 1822; s. 9, Reg. IX of 1825; and s. 5, Reg. XXX of 1803). Notwithstanding these strict prohibitions cesses have continued to be imposed down to the present day. The subject recently attracted the attention of the Bengal Government and inquiries were instituted, which showed that these *abwabs* are of general prevalence all over Bengal, and that they certainly have not diminished in numbers since the permanent settlement. In the district of the 24-Parganas round about Calcutta *no less than 27 different kinds of cesses* were found to be usually levied at this moment (*Report on the Administration of Bengal*, 1872-73, pp. 23, 29). The fact really is that the imposition of fresh *abwabs* is a mode of enhancing rents sanctioned by long custom and acquiesced in by both parties. Mr. Harington speaks of cesses as being in fact a considerable part of the neat rents (Analysis, Vol. II, p. 19), and, in the words of the Bengal Administration Report, "at present the people certainly prefer to pay moderate cesses to an enhancement of rent." They regard an enhancement decree as the fixing of a new *asil*, upon which future cesses will be sure to be calculated, and have just the same dislike to it, as their forefathers had to *pattas* in which the former *asil* and *abwabs* were to be consolidated into a fixed sum under s. 54, Reg. VIII of 1793.

§ 63.—While the zemindárs had been, by means not recognized by law and uncertain in their application and results, endeavouring to obtain what share they could of the increasing value of the produce, the *raiyats*, unrestrained by any checks on population,[1] had been rapidly increasing in numbers, and thus a new demand of a very urgent nature was made upon the distribution of the increase. Amid these conflicting interests the Legislature stepped in, took away from the zemindárs all coercive authority over the raiyats; and regulated by an Act, which was to be administered by the Courts of Justice, the principles upon which the increase is to be apportioned between landlords and tenants. The strong hand of authority was at the same time interposed so as to render all action save through the medium of the Courts well-nigh impossible. The procedure of those Courts rendered it necessary that every individual *raiyat* should be sued separately. To institute and carry on to a successful issue so many individual suits as there were raiyats who would not otherwise come to terms, required capital[2] which few zemindárs possessed; and the prospect of success was very problematical when a few landlords and their servants on one side were opposed by the whole body of tenants on the other side, and witnesses[3] of

Phases of Development.

[1] The population of Bengal, Bahár and Orissa was first estimated at *ten* millions. Sir William Jones in 1787 calculated it to be *twenty-four* millions. This however included Benares. In 1802, it was computed at 30 millions. The Select Committee in their Fifth Report (1812) took it to be 27 millions. Mr. Adams in 1835 made it out to be 36 millions. Mr. Dampier, the Superintendent of Police in Bengal, estimated the population of the Lieutenant-Governorship in 1844, when it included nearly the same territories as now, at a little over 31 millions. Down to 1870-71 the population was officially assumed to be 41 or 42 millions, but the census of 1872 showed it to be 67 millions. Every one marries—few marriages are unproductive—nor is an extraordinarily high birth-rate counterbalanced by a high rate of mortality amongst children in a country where cold and its fatal consequences are unknown. A population increasing at this extraordinary pace swallows up all increase in produce and in the price of produce and leaves but a small share to reach the landholder in the shape of *rent* or the Government in the shape of *revenue*.

[2] It is a curious fact that in the only districts (Nadia and Jessore) in which the enhancement provisions have yet been effectually worked, the experiment was made with English capital belonging to Indigo-planting firms, the result being the ruin of a good many of them. These firms held considerable estates in *ejarah* or *patni* or similar tenure. The raiyats on these estates had long cultivated indigo upon a small portion of their holdings at rates which originally were, or in course of time came to be, unremunerative. So long as they cultivated indigo, they were allowed to hold the whole of their lands at the former low rates of rent. Through causes which it is here unnecessary to mention, they very generally refused to cultivate indigo any longer on the old terms, whereupon the Planters set the law in motion to enhance their rents. A large number of enhancement decrees were passed, but their effect in creating a general rise of rents cannot be exactly estimated, as full operation was not given to them, a sort of compromise being made in many cases, by which the Planters gave up part of the increased rent on condition of the raiyats cultivating indigo.

[3] When enhancement is sought on the ground that the quantity of land held has been proved by *measurement* to be greater than the quantity for which rent has been previously paid, the question in dispute is susceptible of easy proof. Raiyats had and have a great aversion to measurements, and they used effectually to prevent this ground of enhancement from being worked by not attending or pointing out their lands, when a measurement was being made. This difficulty has however been got over by making forfeiture of their rights the penalty of such wilful recusancy. When

the essential facts were not therefore obtainable. The *raiyats*, released from their former subjection, soon turned, as the history of mankind has taught us to be usual, their liberty into licence; and they have now prepared themselves by combination against all attempts upon the position which they have occupied. The difficult problem which the Government of Bengal has at this moment to solve is to devise some efficient machinery for apportioning the increase of the value of the produce of the soil between landlords and tenants with due regard to the rights or supposed rights which owe their origin to unsystematic legislation, irregular custom and the non-uniform action of the courts.

§ 64.—In the North-Western Provinces as our system was more deliberate from the commencement, so it has been worked in more intimate association with the people and their progress, which it has at once accompanied and directed. Here, as in Bengal, tenant-rights were acknowledged, which were irreconcilable with a power in the landholders to eject those tenants, who would not pay as much as the landlord demanded or any other person was willing to give—a power almost essential to the creation and existence of competition rents. But, instead of leaving those rights to be defined and developed under the misguiding influences of usage and tradition fraught with all the evils which it was the first object of our system to eradicate, we set about ascertaining and defining them by a procedure, which year by year threw fresh light on the subject with which we had to deal, and increased our knowledge by the added experiences of the most able officers, working with undivided attention in a single direction. If competition rents did not come into being in Bengal under the circumstances already described, much less were they likely to be created under the operation of rules, which had for one of their principal objects the preservation of tenant rights and the avoidance of the admitted mischiefs which had ensued in Bengal. If the landholders of the Lower Provinces failed

Rent in the North-Western Provinces.

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enhancement is sought on the ground that the rate of rent paid is below the *prevailing rate* payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent, witnesses from the vicinity are indispensable in order to succeed. The *pargana rate* used formerly to be the *prevailing rate*, but *pargana rates* were declared by the Legislature more than half a century ago to have become very uncertain (s. 5, Reg. V of 1812 and see *Mr. Colebrooke's Minute* of 1st May 1812). The new law has not provided an adequate substitute for the provisions contained in s. 9, Reg. XXX of 1803 and ss. 6, 7, and 8 of Reg. V of 1812, as to settling rates. If there is no prevailing rate, which under existing circumstances gives a fair share of the increase to the landlord, it is necessary to take the remaining ground of enhancement, *viz.* that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat. Here, if it be sought to prove an increase of the productive powers of the land, witnesses from the spot are necessary. The inquiries involved in this ground of enchancement are so extensive and the production of the evidence essential to success is a matter of so great expense, that such suits are seldom brought to a successful termination. The cost of success in a single suit is out of all proportion to the advantage gained therein; and where the raiyats, getting to understand the principle "*res inter alias actæ*," defend every individual case, the zemindár is almost compelled to stop, more especially if his funds fail, which not infrequently must happen, when the payment of all rent is suspended pending the dispute. It may be doubted if the existing procedure of a Civil Court is the best machinery for conducting the inquiries involved in this class of cases.

to work the provisions of the enhancement law successfully when the whole profit of success was to be their own, it was not very probable that the landholders of the Upper Provinces would be found to have brought them into more effectual operation, when, under a system of periodical settlements, and in consequence of the Government demand of revenue being increased for each period, a large share of the profit was to go to the State. And such, in practice, has proved to be the result[1] notwithstanding greater facilities of procedure[2] and the employment of a special class of officers, whose training and experience have pre-eminently fitted them for dealing with this peculiar class of cases.

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[1] In an *Extra Supplement to the Gazette of India* published 3rd October 1871 will be found a series of papers which show that the prevailing rates of rent in many estates are far below the average point to which they might fairly and reasonably be enhanced. It was in consequence found impossible to assess such an amount of Government revenue as would justify a permanent settlement, regard being had to the equitable claims of the State. The permanent settlement of all estates so circumstanced has been in consequence suspended pending a reconsideration of the entire question—See *post*, §§ 170-176.

[2] One of these facilities is that in proceedings before a Settlement Officer for enhancement, abatement or commutation of rent, any number of tenants may sue and be sued collectively (see s. 75 of Act XIX of 1873). Where it is sought to enhance the rents of all the raiyats in a village upon a common ground, there can be no doubt as to the propriety of this procedure. In the Court of Chancery in England, when one *general right* only is claimed by a bill, though the defendants have separate and distinct *interests*, a demurrer for multifariousness will not hold (See *Daniell's Chancery Practice*, 5th Ed., p. 286, and cases there cited). It might be argued that an increase in the *value of produce* as a ground for enhancing the *rate* of rent is a cause of action common as against the raiyats of any single estate, uniformly affected by such increase; and that even under the Code of Civil Procedure, a single suit might be brought against any number of such raiyats, when this is the particular ground of enhancement alleged.

CHAPTER III.

THE ADMINISTRATION OF THE LAND REVENUE.

§ 65.—The Tenure of Land is so intimately connected with the Administration of the Land Revenue, that a considerable amount of matter appertaining to the subject of this chapter has already been necessarily anticipated. We have seen that a custom prevailed from the oldest Hindú times by which the sovereign took a share of the produce of the land; that this custom was continued by the Mahomadan conquerors, the share being however gradually increased until it reached one-half; that, in a society almost altogether agricultural, this share of the produce formed the chief source of revenue, the collection and management of which was, in consequence, a subject of the first concern and importance to every successive government. As the State became a more extended and complex institution, the collection of the whole of the revenue in kind became excessively inconvenient and must have been in the end impracticable. It therefore became highly expedient that some effectual means should be devised of at the same time regulating the collections and securing in whole or in part a commutation of produce into money. The first systematic attempt made to effect this object is to be found in the *Institutes of Tímúr.* He directed that of the produce of cultivated lands, made fertile by the water of canals or by perennial springs or rivers, *two-thirds* should go to the cultivator and *one-third* to the royal treasury; that, if the subject consented to pay the tax for the restricted lands in specie, the amount should be fixed according to the current price of grain and paid to the soldiers (to whom no doubt the revenue was assigned for their maintenance); that, if the subject was not satisfied with this mode of collection and the division of the produce into three parts, the restricted lands should be divided into first, second and third *Farrib;* that the produce of the first class should be estimated at three loads, of the second class at two loads, and of the third class at one load, half to be estimated as wheat and half as barley, and of the total amount *one-half* should be collected; that, if the subject should be still unwilling to pay the tax in kind, the value of a load of wheat should be fixed at five *miskâls*[1] of silver and a load of barley at two and a half *miskâls,* and that the duty of the *killâh*[2] should be exacted over and above; that the rest of the lands, those which produced in the autumn and in the spring, and in the summer and in the winter, and the land which depended on the rain for fertility, should be divided into *Farribs;* and that of the produce of those which were numbered, a third or a fourth should be collected: that the duties on herbs, fruits and other productions of the country, on reservoirs of water, commons and pasture lands should be fixed according to the ancient and established practices, and, if the subject should not be

Institutes of Tímúr.

[1] A *Miskâl* is equivalent to 63½ grains Troy.

[2] *Killâh* means "a fort."

content therewith, the collections should be settled according to the *Hast-o-búd.*[1] Whoever undertook the cultivation of waste lands, or built an aqueduct, or made a canal, or planted a grove, or restored to culture a deserted district, from him nothing was to be taken in the first year, and in the second year what he voluntarily offered was to be received: in the third year the duties were to be collected according to the regulation.[2]

§ 66.—Shír Sháh (A.D. 1540—1545) made the next attempt to introduce a regular system for the assessment and collection of the land revenue, but did not live long enough to carry his plans into general effect. He fixed the share of the State at one-fourth of the produce. What he left undone was, however, effectually performed under the auspices of Akber (latter half of the sixteenth century) by Rája Tódar Mal.[3] The first step taken towards effecting an accurate assessment was to make a *measurement of the land;* and, in order to do this the more effectually, one uniform standard was substituted for the various measures in use throughout the country.[4] The next step was to ascertain the produce of each *bighá* of land and to fix the proportion payable to Government. The land was divided into three classes according to its powers of production. The quantity of each kind of produce yielded by a bigha of each class was then ascertained: an average of the three was taken, and the Government demand was fixed at one-third of this average. *Púlej,* or land cultivated for every harvest and never allowed to lie fallow, paid the full demand every year. *Perauti,* or land which had to be left fallow occasionally in order to recruit its powers,[5] was charged only when under cultivation. *Checher,* or land which had lain fallow three or four years in consequence of having suffered from excessive rain or inundation or other cause, paid two-fifths in the first year, three-fifths in the second year, four-fifths in the third and fourth years, and the full rate in the fifth year. *Banjar,* or land which had been out of cultivation for five years or more, was assessed at rates still more favourable.

Tódar Mal's Settlement—A. D. 1582.

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[1] A comparative account showing the present and past produce of an estate—an examination of the value of the crop before it is cut.

[2] *Timúr* or Tamerlane (corruption of *Timúr lenk* or Timúr the lame, he having been lamed for life by a wound in the thigh) invaded India, sacked and burned Delhi in 1398 A D. As he left India the following year and never returned, his system could scarcely have had any very radical operation.

[3] Called likewise, though improperly, Túran Mal or Tooren Mul. He was also distinguished as a military commander.

[4] The *guz,* or measuring yard, was fixed at forty-one fingers. Sixty *guz* made one *tanáb;* and a square of sixty *tanáb,* or 3,600 square yards made one *bighá.* The standard Bengal *bighá* is now 14,400 square feet, or 1,600 square yards, the English statute acre being 4,840 square yards. There is no more fruitful source of fraud and contention at this moment in Bengal than the different lengths of the measuring rods. The Government standard has not been generally introduced; and, whenever a *zemindár* proceeds to measure the lands of the *raiyats,* there is generally a dispute as to the length of the pole, the *raiyats* claiming the use of a long pole, which makes their land less on being measured; the zemindár claiming a shorter pole which makes the land more, and therefore enables him to demand more rent.

[5] In many parts of India, but especially in Bengal, no proper rotation of crops is practised and little or nothing is done in the way of manuring. Land is commonly restored by letting it lie fallow every fourth year.

§ 67.—Having fixed the Government share of the produce, Tódar Mal next proceeded to lay down rules under which such share might be commuted for a money payment. The prices current for the nineteen years preceding the survey were obtained from every village, and the value of the produce was calculated according to an average of these prices. The raiyats were allowed to pay their revenue in money or in kind, as they found most convenient. If they preferred to pay in kind, the division of the produce might be made either by an estimate of the crop while standing *(kankút)*, or by a division of the grain after it was reaped and gathered (*bhaolí* or *batái*). The rules for commutation were occasionally revised according to market rates. The settlement was at first made annually, but this was found to be so inconvenient to Government, and so vexatious to the raiyats, that settlements were afterwards usually made for ten years on an average of the preceding decennial period.[1] If the merits of any reform are fairly judged by results, the system of Tódar Mal must be held to have proved beneficial to the raiyats and just to the State, seeing that it lasted without material variation for more than a century, during which time the country is said to have been in a high state of cultivation, and the raiyats in a most prosperous condition.[2]

Commutation of share of produce for money payment.

§ 68.—Tódar Mal's settlement of the súbah of Bengal was made in or about the year 1582 A.D. : and the annual amount of revenue assessed by him was Rs. 1,06,93,152. The first increase of this assessment was made seventy-six years afterwards in 1658 by Shujá Khan,[3] who raised the annual revenue to Rs. 1,31,15,907. No further material enhancement was made until the time of Jafíer Khan[4] otherwise known as Murshed Kúli

Subsequent assessments of Bengal under Native Rule.

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[1] A full account of Akber's reforms is contained in the "*Ayeni Akberi*," translated by Mr. Gladwin. The country was divided into sections, each yielding a *kror* of *dáms* = Rs. 2,50,000, the collector of which was called a *krori*. Farming was not practised, and the collectors were enjoined to deal with individual raiyats. In the *Answers of Gholam Hosein Khan, Appendix No.* 16 *to Mr. Shore's Minute of* 2*nd April* 1788, it is stated that in Akber's time and long after the rents were paid in kind. In order to preserve the accounts necessary to Tódar Mal's system, the office of kanungo (literally "expounder of the laws," from *kanún* = laws, and *go* = to speak) was created; and in the custody of this officer all the records of the public accounts were kept. The *patwari* kept similar accounts for the village, and forwarded annual returns to the kanungo. Mr. Shore remarks that the policy of the Mogul administration taxed improvement. This is true, as the assessment might be raised upon a decennial revision. The defect in this policy was that it drew no distinction between improvement effected by the labour or capital of the cultivator, and improvement due to causes unconnected with the individual.

[2] *Answer to* 38*th Question by Gholam Hosein Khan, Appendix No.* 16 *to Mr. Shore's Minute of* 2*nd April* 1788, who says that the institutes of Akber continued in use until the time of Bahádur Sháh (1707—1712 A.D.).

[3] See *ante*, p. 5.

[4] He was born of Bramin parents. Bought while an infant by a Mahomadan, he was carried to Persia, and there reared in the creed of Islam. On the death of his master, he found his way to the Dekkhan, and got into the service of Alamgír, who gave him the Díwání of Heiderabad, with the title of *Kar Tallab Khan*. From that he was transferred to the same post in the *súbah* of Bengal, with the title of *Murshed Kúli Khan*. He removed the seat of government in 1707 from Dacca to Múrshedabad, which he called after himself. He used to say that a Mahomadan was a

Khan, who having put aside the zemindárs and others who stood between the Government and the cultivators, managed the collection of the revenue entirely by his own officers. By these means, and by supplying the raiyats with implements of husbandry and with advances of seed grain, he increased cultivation, and augmented the revenue to Rs. 1,42,88,186. He imposed the first of the *subahdarí abwábs*, or imposts, namely *khas-navísí*, which was then but a trifling fee to the *khalsa*, or treasury officers. Jafier Khan died in 1725, and was succeeded by his son-in-law SuJáh-ud-dín, whose assessment for 1728 was Rs. 1,42,45,561. He set at liberty the zemindárs who had been confined by his predecessor, on condition of their agreeing to pay the amount of revenue which had been assessed upon their zemindarís. He imposed four additional *subahdarí abwábs*. Sujáh-ud-dín was succeeded in 1740 by Aliverdí Khan, who died in 1756. Three further *abwábs* were imposed in his time, one of which was the famous Maratta chauth.[1] The highest assessment before the time of British rule was made by Kásím Ali, who in 1763 raised the revenue to Rs. 2,56,24,223. Mr. Shore thinks[2] however that, notwithstanding the extreme rigour of his proceedings, there is no proof that this amount of revenue was ever actually realized; and that, even if it were realized for a year or two, the country was then incapable of bearing this assessment permanently.

Situation of the English when they obtained the Díwání.

§ 69.—When, as a result of the grant of the Díwání in 1765, it became necessary for the Company's servants to undertake the administration of the land revenue, they were placed in one of the most extraordinary positions recorded in history. Ten years before the English had been utterly expelled from the country, of which they now assumed the *de facto* government. Having been occupied solely in the pursuit of trade, they had no previous means of acquiring that knowledge and experience, which were necessary in order to enable them to take with confidence the helm of affairs. The system of administration, which had existed in the country, was not a system of written rules and plain principles, which they could learn by careful application. It was a tangled unsystematic mass of chicanery, dishonesty and oppression. Those, upon whom they were compelled to rely for instruction, were prompted by self-interest to mislead and misinform, and neither morality nor religion withstood the prompting. Much was learned

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sieve, which retained nothing, and that a Hindú was a sponge, which might be squeezed at pleasure. Accordingly he employed Hindús only in the collection of the revenue, and these he squeezed effectually, when he suspected that the revenue had been absorbed, so that the full amount did not reach the treasury. He divided the *súbah* into thirteen *chaklas*, over each of which he placed a collector. Many of these collectors subsequently developed into Zemindárs. The former Zemindárs were put by him in close confinement, in which many of them were detained during the whole of his tenure of office, while his Bengalí amils collected the revenue. His exclusive employment of Hindús goes a long way to account for the fact that, when we obtained the Díwání, we found all the zemindárs to be Hindús, though the government was Mahomadan.

[1] Mr. Shore says that the impositions of Jafier Khan, Sujáh and Aliverdí amounted to an increase of about 33 per cent. upon the assessment of 1658, while the increase of the zemindár's exactions from the raiyats could not be less than 50 per cent.—*Minute of 18th June* 1789, § 41.

[2] *Id.* §§ 47, 77.

only to be abandoned because its practice was not consistent with those principles of humane and equitable government, which, professed from the beginning, have been steadfastly adhered to and at length firmly established.

§ 70.—In the year following the grant of the Díwání, Lord Clive took his seat as *Díwán* at the *Punyá* or annual ceremony of settling and commencing the collection of the revenue at Motighíl near Múrshedabád. The districts of the Twenty-four Parganas, Bardwan, Midnapore and Chittagong, which had been previously acquired,[1] were at this time under the management of the Company's servants; but they were not in a position to take the whole of Bengal, Bahár and Orissa under similar management. A native *Naib* or Deputy *Díwán* resident at Múrshedabád, and under the supposed control of the European Resident, and a similar officer for Bahár under the control of the European Chief at Patna, conducted the collection of the revenue without any change of the former system until 1769. In this year Supervisors were appointed (16th August) to superintend, in subordination to the Resident, the native officers employed throughout the country in collecting the revenue and administering justice. They were instructed "to ascertain in a minute, clear and comprehensive manner" the history of each district from the time of Shujá Khan's *subahdari*, this being considered the "era of good order and good government;" the state, produce and capacity of the lands; the amount of revenue, cesses and other demands levied from the *raiyats*, the manner of collecting them and the gradual rise of every new impost; the nature and extent of the different manufactures, and the impositions levied on the manufacturers, with other particulars necessary for the regulation of commerce; and whatever might tend to a knowledge of actual abuses and promote the reform of them in the administration of justice.[2]

Earliest measures after the Díwání.

Supervisors—A.D. 1769.

§ 71.—In 1770 two Revenue Councils of Control were established, one at Múrshedabád, the other at Patna. During the same year, a terrible famine is said to have destroyed one-third of the inhabitants of Bengal. In 1771 the Court of Directors sent out instructions[3] "to stand forth as *Díwán* and by the agency of the Company's servants to take upon themselves the entire care and management of the revenues." The Naib Díwáns at Múrshedabád and Patna were in consequence removed; and the Supervisors were styled "Collectors," a fixed *Díwán* being joined with the Collector in the "superintendency of the revenues." A Board of Revenue was now constituted at the Presidency consisting of the Governor and Members of Council and an Accountant-General with assistants. The Khalsa or Exchequer and the Treasury were at the same time removed

The Company stands forth as Díwán.

Collectors, 1772.

First Board of Revenue.

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[1] See *ante*, p. 7.

[2] See *Harington's Analysis, Vol. II, p.* 4. Some wholesome directions for their conduct were also given them. "Depend on none, where you yourself can possibly hear and determine. Let access to you be easy, and be careful of the conduct of your dependents. Aim at no undue influence yourself, and check it in all others. A great share of integrity, disinterestedness, assiduity, and watchfulness is necessary, not only for your own guidance, but as an example to all others, for your activity and advice will be in vain, unless confirmed by example."

[3] General letter of 28th August, 1771.

from Múrshedabád to Calcutta.[1] It was resolved (14th May 1772) to conclude a settlement of Bengal and Orissa for a period of five years, Bahár having been already settled for a term of years; and, in order to make this settlement, a Committee, consisting of the President (Mr. Hastings)[2] and four other members, was appointed to go on circuit. The giving of presents (Nazars and Salámís), usually presented at the first interview as marks of subjection and respect, was directed to be totally discontinued, as well to the superior servants of the Company and the Collectors, as to the zemindárs, farmers and other officers. The system established in 1772 was altered in November 1773, owing to instructions received from the Court of Directors. The European Collectors were withdrawn, and their districts left in charge of Native Díwáns or Amils. A *Committee of Revenue* was formed at the Presidency consisting of two Members of the Council Board and three Senior Civil Servants below Council. The three Provinces were distributed into six divisions, the Calcutta division being placed under the superintendence of the Committee just mentioned; and the remaining five divisions under the superintendence of Provincial Councils stationed at Bardwan, Patna, Múrshedabád, Dinajpore and Dacca.

Plan of 1773.

Provincial Councils.

§. 72.—The high assessment imposed by Kásim Ali was found in the accounts, which came into the hands of the Company's servants upon the grant of the Díwání. Every endeavour was made to collect the revenue according to this assessment, but it was found impossible to do so partly because the amount was more than the country could bear, and partly because the coercive means employed by the English Government were very much milder than those habitually resorted to under the previous native administration. The difficulty of realizing the revenue had been greatly increased by the famine of 1770; and the Company's Government were considerably perplexed as to the course to be pursued in order to place the finances in a position satisfactory to their honorable masters. The real object of the Committee of Circuit of 1772 was to ascertain the value of the country by letting it in farm for a term of years to the highest bidder. It was believed that the natives were better informed of the value of the lands than their rulers, and that few would engage to pay what they could not find means to discharge.[3] Accordingly the Quinquennial Settlement of 1772 was concluded for the most part with farmers. Experience showed this to be a mistake. Ignorant of the real

Quinquennial Settlement of 1772.

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[1] One of the expressed objects of this change was that the eyes of the people might be turned to Calcutta as the centre of Government and to the Company as their sovereign, that Calcutta instead of Múrshedabád might become the capital.

[2] He did not, however, go on circuit. The four junior Members alone went.

[3] *Mr. Shore's Minute of 18th June* 1789, § 95. It may be observed that when the English succeeded to the management of the revenues, no trace remained of the *jama* assessed on the raiyats by Todar Mal (*id.* § 218). There are three modes of realizing the land revenue: (1) by employing Government officers to collect it direct from the cultivators; (2) by letting it out to farmers; (3) by settling with zemindárs or other middlemen having proprietary rights in the land. The *first* was Akbar's plan and has been tried by the English in the Madras raiyatwári system. Its great disadvantage is that for adequate execution, it requires a minuteness of inspection and a

capabilities of the country and incited by the hopes of profit formerly realizable under a government which took no heed of oppression and extortion practised in collecting its own dues, speculators readily agreed for sums which they found themselves utterly unable to pay when the time for payment came.[1]

§ 73.—As the quinquennial settlement of 1772 approached its expiration, and these results became more apparent, it was deemed expedient to make an effort to obtain additional information as a guide to the best course to be followed in making a new settlement. Accordingly, three Covenanted Civil Servants, with an establishment of Amíns, were deputed (20th December 1776) to procure the most exact information as to the real produce or value of the lands; and they submitted (25th March 1778) a report containing much valuable information. A preference was now given to the zemindárs, and the settlement was concluded with them, where they were willing to engage for a reasonable assessment. Annual settlements were made for the years 1778, 1779, and 1780. Results being still unsatisfactory, another change was made in 1781. The Provincial Councils were abolished, and their duties transferred to a Committee of Revenue at the Presidency, consisting of four covenanted servants. In order to prevent any bad consequences of too sudden a change, the chiefs of the Provincial Councils were directed to remain in the temporary charge of their divisions until recalled by further orders. The office of the Khalsa or Exchequer was transferred to the Committee of Revenue, and alterations of detail were made in the manner of conducting business, the general intention of all portions of the entire scheme being—"that all the collections of the provinces should be brought down to the Presidency, and be there administered by a Committee of the most able and experienced of the covenanted servants of the Company under the immediate inspection of, and with the opportunity of instant reference for instruction to, the Governor-General and Council."[2]

Commission of Messrs. Anderson, Crofts, and Boglo.

Annual settlements in 1778, 1779 & 1780.

Changes in 1780—Committee of Revenue.

§ 74.—The plan of managing the whole business of the revenue at the Presidency without the assistance of responsible local agents was soon found to be impracticable, and the withdrawal of the Collectors to have been a mistake. Mr. Shore, writing in 1782, expressed his opinion that the real state of the districts was then less known and the revenues less understood than in 1774. The Committee of Revenue were accordingly instructed (7th April 1786), on proceeding upon the ensuing year's settlement, to divide

Collectors reappointed 1786-7.

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detailed superintendence, which are incompatible with the scale of European agency possible with regard to financial considerations; and native agency has been found unsafe where so many opportunities of profit present themselves. The *second* plan was introduced by the Emperor Farokhsír (1713—1719). The objection to it is that the farmer having no permanent interest in the land is in no way restrained in his exactions by the prospect of resulting damage. The *third* plan was tried by the English in the hope that with those possessed of permanent proprietary rights regard for their own future interests would impose a check upon oppression pernicious in its ultimate results—(See in connection with this subject *Lord Moira's Minute of the 21st September* 1815, and *Mr Shore's Minute of the 18th June*, 1789, §§ 154—197)

[1] See *Harington's Analysis, Vol II, p.* 58, for an extract from this Report.

[2] Mr. Shore was one of the Members of this Committee of Revenue.

out the *Huzúrí*[1] *Mahals* into Collectorships in such manner that no one Collectorship should exceed in *jama* the sum of eight lakhs of rupees. In pursuance of these instructions, the provinces of Bengal and Orissa were divided into more than twenty Collectorships, exclusive of those which had been already established in Bahár, making thirty-six in all. In the following year a new division was proposed and approved by the Governor-General and Council (21st March 1787), under which the number was reduced to twenty-three or, including the Salt districts, twenty-four. Immediately afterwards (8th June 1787) rules were made for the conduct of Collectors, and these rules were subsequently re-enacted with amendments in Regulation II of 1793.[2]

Board of Revenue Established.

§ 75.—In accordance with the instructions of the Court of Directors,[3] a Board of Revenue was in 1786 (12th June) substituted for the Committee of Revenue. One of the members of Government was the President of this Board, which, in other respects, "was expressly constituted on the foundation and principle of the Committee." A regular set of rules was made for the guidance of the Board of Revenue in 1788 (25th April), by which the general functions of the Board were declared to be "deliberation, superintendence, and control," and it was made their principal duty to take care that the officers under their authority should perform their assigned duties with regularity, integrity, and assiduity. In order to enable them to carry out this "fundamental principle of their institution," they were invested with power to summon any officer to the Presidency to explain and justify his conduct, to impose a fine upon him not exceeding a month's salary, and to suspend him from office. Every instance of the exercise of these powers was to be reported to the Governor-General in Council.[4] The rules passed for the guidance of the Board of Revenue were incorporated in Regulation II of 1793, the essential portions of which are still in force in the territories subject to the Government of Bengal.[5]

§ 76.—After the expiry of the quinquennial settlement in 1777, annual settlements were made for several years, chiefly in consequence of the orders of the Court of

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[1] *i e.* paying their revenue direct into the Government treasury.

[2] Which is still in force in Bengal.

[3] Letter of 21st September 1785.

[4] These powers have been only recently taken away, see ss. 30 and 31 of Reg. II of 1793, repealed by Act XVI of 1874.

[5] The *personnel* of the Revenue Department has been altered since 1793 in two material respects only, *viz.* by the appointment of Commissioners of Revenue in 1829, and the employment of Deputy Collectors in 1833. It now consists of—I. The *Board of Revenue*, as to which see Regs. II of 1793, III of 1822, and X of 1831, *post.* II. *Commissioners of Revenue*, see Reg. I of 1829. III. *Collectors*, see Reg. II of 1793. IV. *Deputy Collectors*, see Reg IX of 1833. V. *Assistant Collectors*, who are covenanted servants employed during the first years of their service in assisting the Collector and so learning the duties of the Revenue Department. For the *personnel* of the Revenue Department in the North-Western Provinces, see Chapter II (sections 4—35) of Act XIX of 1873. Native Díwáns used formerly to be associated with the European officers in the collection of the revenue. The Provincial Díwáns were abolished in 1786. The Collectors' Díwáns appointed by Reg. II of 1793 were abolished from the 1st January 1814, see s. 2, Reg. XV of 1813.

Directors. The Company's Government were however strongly impressed with the mischief of this practice as being injurious to the landholders and their tenants, calculated to produce rigour and exaction towards the cultivators of the soil, discouraging to all improvements of agriculture, and consequently inimical to the general prosperity of the country.[1] All this they represented to the Court of Directors, and in 1776 they submitted a plan for making a life settlement with the zemindárs. The Court replied that "having considered the different circumstances of letting the lands on leases for lives or in perpetuity, they did not, for many weighty reasons, think it at present advisable to adopt either of these modes."

System of Annual Settlements mischievous.

§ 77.—In 1784 was passed the 24 Geo. III., Cap. XXV, the 39th section of which required the Court of Directors to give orders "for settling and establishing upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents, and services of the rájás, zemindárs, polygars, talukdárs and other native landholders should be in future rendered and paid to the United Company." In obedience to these provisions, orders were transmitted[2] to the Government in India for making inquiry into the condition of the landholders and other inhabitants residing under their authority, and for the establishment of permanent rules for the settlement and collection of the revenue and the administration of justice, founded on the ancient laws and local usages of the country. The Court of Directors at the same time expressed their opinion that it would be most in accordance with the spirit of the Act to fix a permanent revenue on a review of the collections of former years; and that the settlement should, in every practicable instance, be made with the zemindárs, rules being at the same time made for maintaining the rights of other classes according to the usages of the country. The settlement was directed to be concluded for ten years: and, when it was completed, all the papers were to be sent to the Directors to enable them "to form a conclusive and satisfactory opinion, so as to preclude the necessity of further reference or future change."[3]

24 Geo. III., Cap. 25.

Orders for the Decennial Settlement.

§ 78.—The Court of Directors assumed that the assets of the lands were sufficiently known[4] under the various attempts made to ascertain them since 1765, and that no new scrutinies would be necessary. On receipt of these orders, however, the most careful

Inquiries made anew.

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[1] *Harington's Analysis*, II. p 172.

[2] Separate general letter of 12th April 1786.

[3] The Marquis Cornwallis, who came out as Governor-General in 1786, was the bearer of these instructions. It was intended to make the settlement permanent when finally approved.

[4] This was a fallacious assumption. Mr. Shore was of opinion that none of the previous settlements had been regulated by an accurate knowledge of the resources of the country. In fact, no such knowledge existed in any individual or any class, Native or European. All had been confusion and disorder under an arbitrary and despotic system, which produced amongst the people a mixture of simplicity, fraud, servility, and tyranny. What the resources of the country would be when allowed to run in fixed courses under an orderly and settled Government, no man could prophesy. Mr. Shore was of opinion that the revenue assessed at the time of the Permanent Settlement could not be increased (*Minute of 8th December* 1789). In eighteen years, it was found that the difference between the collections from the cultivators and the amount paid to Government had *trebled*.

Results incorporated in Mr. Shore's Minute of 18th June 1789.

local inquiries were made anew to obtain all possible information as to the past and present state of the country. The results of these inquiries were collected and incorporated in Mr. Shore's very able Minute of the 18th June 1789, which the Court of Directors characterized as a "comprehensive and masterly dissertation, which not only exhibited and methodized the most material parts of the reports from the Collectors of the Bengal Province, but afforded new and important communications from himself, supplying in various respects what they wanted—delineating with great clearness the past financial system and history of Bengal—examining with candour those points in it which have been subjects of controversy—investigating with patient judgment the best system for the country, the difficulties which may attend it, the means of obviating them—and in fine proposing from the whole a set of regulations for carrying into execution the orders of the Court respecting the decennial settlement, so as to secure justice both to the Government and the subject, and to prevent in future those abuses which either exist, or may be apprehended in the detail of the collections :"—strong language of praise, but merited to the full. All that ability and assiduity could do to collect and digest all available information was done by Mr. Shore. His conclusions from the materials at his disposal were wholly warranted. That these conclusions would hold good in their operation under altered circumstances, he was himself the first to doubt; and, if his advice to await further experience before adopting final measures had been taken, the mistake of the Permanent Settlement would have been avoided.[1]

Reasons for the Permanent Settlement.

§ 79.—The reasons, which decided the English authorities to settle with the zemindárs, have already been stated.[2] Apart from the question of policy, there can be no doubt that they were perfectly justified in the course thus taken.[3] The mistake of the measure lay in this, that sufficient active provision was not made for the protection of the rights of other persons, and that we erroneously persisted for years in regarding the relations between *zemindárs* and *raiyats* as analogous to, if not identical with, the mutual position of landlords and tenants in England. The reasons which recommended themselves for making the settlement on a fixed and permanent plan, and the benefits which were expected to result from the measure, are set forth in the sixth article of the Proclamation of the 22nd March 1793.[4] In addition to the reasons there given may be mentioned a very strong impression that the country wanted rest from constant change. Our first administration had been in the highest degree fluctuating and uncertain. Ideas of improvement had been hastily adopted, unsteadily pursued, and finally abandoned from some supposed defect, which might have been foreseen at the commencement, or afterwards remedied with care. New measures had been substituted, followed and relinquished

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[1] See *ante*, p. 35, *Note*

[2] See *ante*, pp. 33, 34.

[3] Mr. Mackenzie (see Minute of 27th March 1786) argued that in a despotic state, the question was one which the sovereign alone was competent to decide; and that the Company had in this respect rights equal to those formerly held by the Emperor. I include the sacrifice of the increase of revenue under the consideration of policy.

[4] See section 7 of Regulation I of 1793, *post*.

with equal facility. The Natives from these variations, came to expect a change of system with every succession of men. The establishment of *principles* was therefore considered to be the great remedy for the evil consequences of constant fluctuation in the members of the governing body.[1]

§ 80.—After considering Mr. Shore's Minutes[2] and the other papers connected with the subject, the Governor-General in Council passed on the 18th September and 25th November 1798 and 10th February 1790, those rules for the decennial settlement of Bengal, Bahár, and Orissa[3] respectively, which were afterwards, with modifications and amendments, incorporated in Regulation VIII of 1793. It was at the same time notified that the assessment fixed by this settlement would be continued and remain unalterable for ever, if the Court of Directors approved. This approbation was given by the Court in their Revenue General Letter of the 19th September 1792:[4] and accordingly a proclamation was issued on the 22nd March 1793, declaring the assessment fixed for ever. The articles of this Proclamation were enacted into Regulation I of 1793.

Orders for the Permanent Settlement.

§ 81.—The demand of the State having thus been limited for ever, and the Government having voluntarily resigned[5] all claim to share in the increased produce or

History of the Administration of the Land Revenue henceforward contained in the Sale Laws.

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[1] *Mr. Shore's Minute of 18th June* 1789, sections 258—260. In judging of the merits of the Permanent Settlement, the effect of the measure (and of the prospect of a similar measure for a long time held out in the North-Western Provinces) towards correcting this undoubted mischief ought fairly to be taken into consideration.

[2] Of 18th June 1789, as to Bengal: and 18th September 1789, as to Bahár.

[3] Orissa here spoken of included only the district of Midnapore and part of Hughlí, or more accurately the tract of country between the rivers Suburnorekha and Rúpnarain—see *Bengal Administration Report*, 1872-1873, p. 40. Orissa proper was not acquired until 1803, see *ante*, p. 16.

[4] In this letter the following passage occurs:—"You will, in a particular manner, be cautious so to express yourselves as to leave no ambiguity as to our right to interfere from time to time, as may be necessary for the protection of the raiyats and subordinate landholders; it being our intention in the whole of this measure effectually to limit our own demands, but not to depart from our inherent right, as sovereigns, of being the guardians and protectors of every class of persons living under our Government." See, *ante*, p. 35, *Note*.

[5] When the Income Tax was first imposed (1860); and again more recently, when it was proposed to levy an Educational Cess in Bengal, the zemindárs, whose estates had been included in the Permanent Settlement of 1793, raised an objection that these taxes were an infringement of the Permanent Settlement and of the promises then made that the assessment would remain fixed for ever, and that *no demand would ever be made upon them or their heirs and successors by any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates.* The Government of India answered this by relying in some measure upon the seventh article of the Proclamation incorporated in Regulation I of 1793; but the Home Government took a wider and undoubtedly a reasonable view in maintaining that it was necessary to look for the answer altogether outside of the four corners of the document in which the Permanent Settlement is recorded. It was pointed out that the scope and object of that measure are clearly shown by the words above italicised and by the whole of the sixth Article of the Proclamation, *viz.* to put an end for ever to the practice of all former Governments of altering and raising the Land-tax "from time to time," so that the landholder was never sure, for any definite period, what proportion of the total produce of the soil might be exacted by the State. It was therefore decided that the

value of the produce of the soil resulting from causes unconnected with improvements effected by individual enterprize, the history of the administration of the Land Revenue in Bengal, Bahár, and Orissa is from this time forward to be found in the Regulations and Acts which have been passed from time to time to enable the Revenue Authorities to compel the payment of the amount assessed on estates at the time of the Permanent Settlement.[1] I now proceed to trace the course of this peculiar legislation from the period of the Permanent Settlement down to the present time.

§ 82.—The first Regulation on the Statute Book, which prescribes the process for the realization of the public revenue in the provinces of Bengal, Bahár, and Orissa is Regulation XIV of 1793. There are two classes of defaulters contemplated by this Regulation, *viz.* I.—Zemindárs, independent talúkdars (see s. 5, Regulation VIII of 1793), and other actual proprietors of land; and II.—Farmers of land, holding farms immediately of Government. In respect of the former, the Regulation provides the following process:—

Regulation XIV of 1793.

Process against Proprietors.

(1).—The issue and service of a written demand (dastak, s. 3). (2.)—Arrest and confinement (s. 4),[2] if the third part of the instalment of any one month were not paid by the 15th of the following month. (3).—Simultaneous deputation of an Amín to collect the rents and revenues from the estate or farm of the defaulter (s. 6). This was a virtual attachment. (4).—Sale of the estate, or of a portion thereof, but only with the sanction of the Governor-General (ss. 13 and 22).[3] (5).—If the whole amount due were

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Bengal zemindárs were liable to this taxation in common with other members of the community and other owners of property (see *Despatch No. 5 of 12th May* 1870, *published at page* 841 *of the Supplement to the Gazette of India of* 25*th June* 1870). Of the justice and propriety of this decision there cannot be a doubt. Assuming the terms of the Permanent Settlement to constitute a *contract*, as some like to call it, its scope must be limited by its subject-matter, and its language cannot be applied to things not within the intention to be gathered from the whole document. Those who still contend that this intention, as interpreted by the Home Government, was not the intention of the authors of the Permanent Settlement, would do well to read Lord Cornwallis's Minute of the 3rd February 1790, which shows very clearly that the possibility and probable necessity of future general taxation were then present to his mind, and that it never occurred to him for a moment to think that the terms of the Permanent Settlement, as drawn under his guidance, could be urged as a bar to such taxation. On the contrary he distinctly contemplated future *general* taxation as a means of carrying into practice the maxim that all the subjects of the State ought to contribute to the public exigencies in proportion to their incomes—which maxim he considered violated by varying the assessment on the land, when an increase was found necessary, and so drawing this increase from one class, only, while "the merchants and inhabitants of the cities and towns, the proprietors of rent-free lands, and in general all persons not employed in the cultivation of the lands paying revenue to Government" contributed little or nothing. See also Preamble to Reg. XXVII of 1793.

[1] The total amount levied under the Decennial Settlement in the Bengali year 1197 (1790-1791) was Sicca Rs. 2,68,00,989, *i.e.* for Bengal, Bahár, and Orissa.

[2] If the proprietor contested the fact of the alleged arrear, or any portion of it being due, tendered sufficient security, and undertook to institute a suit in the Civil Court within ten days to try the question, the Collector was bound to release him on security (ss. 9, 10, and 11).

[3] The sale was to be ordinarily for arrears due at the end of the year, though the Governor-General in Council might direct the sale before the close of the year. Lands directed to be sold were to be attached by an Amín, if such an officer had not been already deputed under section 6 (section 25).

not realized by the sale of the revenue-paying lands of the defaulter, then by attachment and sale of his other real and personal property (s. 44).[1]

Process against farmers and their Sureties. Demands recoverable as arrears of Land Revenue.

§ 83.—All the above processes were equally applicable to farmers holding farms immediately of Government (ss. 3, 4, 6, 23, 24, and 44); and also to the sureties of such farmers. Arrears of *tuccavi*, or any money advanced by Government to proprietors or farmers for making or repairing embankments, reservoirs, or water-courses, or other improvements, were to be recovered by the same process as arrears of land revenue (s. 40).

Regulation III of 1794.

§ 84.—The next Regulation on the subject is III of 1794, in the preamble to which it was declared that the Governor-General in Council considered property alone to be a sufficient security for the public dues. Accordingly, *proprietors of land* were declared no longer liable to be confined[2] for arrears of public revenue or demands recoverable as arrears of revenue, unless in the event of the whole of their lands having been sold without realizing sufficient to defray the amount due to Government. Interest at twelve per cent. per annum was now to be charged on arrears, after a notice had been served on the defaulter that he would be subjected to this penalty, failing payment (s. 4). The first step for the realization of arrears, was the sale of the revenue-paying lands; and the Board were authorized to advertise them for sale, in anticipation of the sanction of the Governor-General; but the sale was not to take place until the receipt of such sanction (s. 5). Sales were allowed without restriction, as well for arrears accruing within the year as for arrears remaining due at the close of it.

Confinement of Proprietors in the first instance abolished. Interest to be charged on arrears.

Process against farmers unaltered. Native Officers entrusted with Public Money or Accounts.

§ 85.—This Regulation made no change in the process applicable to farmers and their sureties provided by Regulation XIV of 1793. It extended the coercive process of the revenue authorities to a new class of persons, *viz.* native officers entrusted with the receipt or payment of public money, or the charge of public accounts. These persons were now required to provide sureties (s. 15). If a Collector had a claim against a native officer for money or papers belonging to Government, he was to make a written demand of the payment of the money or delivery of the papers. Failing compliance,

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[1] Which was attached and sold under the same rules as the revenue-paying lands.

[2] The following extract from the *Fifth Report of the Select Committee on the affairs of the East India Company* describes in graphic language the manner in which arrears were recovered before the introduction of British rule':—"Under the native Governments the recovery of arrears from defaulters was sometimes attempted by seizure and confiscation of personal property, or by personal coercion. The *zemindár* might experience the mortification of having the administration of the *zemindári* taken out of his hands and entrusted to a sezawal. *He might be imprisoned, chastised with stripes, and made to suffer torture, with the view of forcing from him the discovery of concealed property. He was liable to expulsion from the zemindári. He might be compelled to choose either to become Mussalman or to suffer death.*" Mr. Shore says:—"Pits filled with ordure and all impurities were used as prisons for the zemindárs, and these were dignified with the appellation of *Baikanth*, the Hindu Paradise." Another account is that they were suspended by the heels, and the soles of their feet having been rubbed with a hard brick were then bastinadoed with a switch In winter they were stripped naked and sprinkled with water, a very severe torture to inhabitants of a hot climate.

he might apprehend the native officer and convey him to gaol, and might also attach his real or personal property, which the Board of Revenue were authorized to have sold under the rules applicable to the sale of land for arrears of revenue (s. 16).[1] If the native officer absconded, the Collector might proceed against his surety in the same way (s. 17). If a native officer, being required by notice posted in the Collector's Kachahrí and at the last place of residence of such officer, failed to attend to adjust his accounts, the Collector might prepare as accurate a statement as he was able, and might upon this proceed against the native officer and his surety, as if the account had been adjusted (s. 18).

Regulation V of 1796. Reg. XII of 1796.

§ 86.—The next Regulation was V of 1796, which provided for selling lands in lots, for not selling the remaining lots when the sale of one or more had satisfied the arrears due, and for paying over surplus sale-proceeds to the defaulter, who was entitled to them. Regulation XII of 1796 increased the deposit to be made on the purchase of lands at public sales from five to fifteen per cent.

Revenue not realized with punctuality. Further measures necessary.

§ 87.—It was now found that the revenue was not realized with the desired punctuality. Freed from the fear of confinement, and taking advantage of the delay with which the process for disposing of their lands was unavoidably attended—when the orders of the Board of Revenue and of the Governor-General had, in those days of imperfect means of communication, to be obtained before a sale could be made—many of the zemindárs withheld payment until the very day of sale; or, with a view to profit by the want of information in the public officers of the actual produce[2] of their estates, which was the result of the discontinuance of former checks and scrutinies, instead of preventing,

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[1] If either the native officer or his surety, being in confinement, wished to contest the justness of the claim, he might do so by instituting proceedings in the Civil Court, and if he furnished sufficient security for fulfilling the final orders of the Court, he might be released from confinement (ss. 19 and 20).

[2] Under the provisions of section 10, Regulation I of 1793, the *actual produce* was the basis of the apportionment of revenue. Referring to this provision, the Select Committee say:—"The exact adjustment of the revenue on lots of estates exposed to sale would have been by this rule extremely easy, had the *data* been procurable with sufficient exactness; but the actual produce of the whole, or of the part of an estate, could now be known only to the zemindár and his own servants. The means which the former Governments possessed, and might have exercised for this purpose, were relinquished on the conclusion of the Perpetual Settlement. The Directors had already prohibited the practice of minute local scrutinies: the Kanúngo's office was now abolished: and the *Patwári* or village accountant declared to be no longer a public officer but the servant of the zemindár. Under these circumstances, the real produce of the whole, or any part of an estate, could be known only to the proprietor, whose interest it was to represent the produce on the part distrained for sale as great as possible, by which means he might procure a diminution in the rate of assessment on the part remaining." The Committee had already shown that, as the public faith was pledged not to increase the amount of revenue, the great proportion borne by the revenue to the produce rendered a correct adjustment on the portion of an estate sold indispensable, as if overrated, such portion would prove unequal in produce to defray its assessment. The consequence would be loss to the purchaser, and another sale as the result: and Government would ultimately be compelled either to assume possession itself, or render it worth purchasing by reducing the assessment.

they encouraged the public sale of portions of their lands, for the purpose of repurchasing the same in fictitious names at an underrated assessment, or of reducing the assessment upon the residue of their estates by overrating the proportion sold. It was at the same time thought that proprietors and farmers had not sufficient means of realizing their own dues from the under-tenants and raiyats and that some of them were, for this reason, unable to meet the demands of Government. The frequent and successive sales of land which, in consequence, took place within the year, were found productive of material ill-consequences, as well towards the land-proprietors and under-tenants, as in their effect on the public interest in the fixed assessment of the land revenue.[1]

Causes of unpunctuality in the payment of the Revenue.

§ 88.—In order to remedy these evils, Regulation VII of 1799 was passed. By the first twenty sections[2] of this Regulation, larger powers of *distraint*, and, in the case of

Regulation VII of 1799.

[1] Taken almost *verbatim* from sections 1 and 21 of Regulation VII of 1799. The Select Committee in their *Fifth Report* are not so much disposed to blame the zemindárs as to attribute these results to a change of system. They point out very forcibly that the new system had abolished, under severe penalties, the exercise of the powers formerly allowed the landholders over their tenantry, and had referred all personal coercion, as well as the adjustment of disputed claims, to the newly established Courts of Justice; that these Courts were utterly unable to cope with the work thus thrown upon them (in Bardwán there were more than *thirty thousand* cases before the Judge); that the determination of a single suit could not be expected in the course of the plaintiff's life; that the cultivators, taking advantage of the inability of the Courts to afford the zemindárs redress, withheld their rents, and in their turn made the zemindárs suffer; that the rules for the distraint of the crop or other property, founded on the practice in Europe, and intended to enable the zemindárs to realize their own rents, by which means alone they could perform their engagements with Government, were ill-understood, and not found to be of easy practice.* Then the proportion of the produce, fixed as the Government share, *viz.* ten-elevenths of the rent paid by the tenantry, was in most cases a large proportion; and it required the most attentive and active management to enable a landholder to discharge his instalments with the exact punctualty required by the law. But landholders, as a rule, were not capable of such management, being in the habit of leaving their affairs to servants who were accustomed to seek for the means of extricating themselves from difficulties in intrigues with superior authorities, rather than in their own individual exertions. Under these circumstances, the Commitee conceived it to have been shown that the great transfer of landed property by public sale, and the dispossession of the zemindárs, which took place within a few years after the conclusion of the Permanent Settlement, could not be altogether ascribed to the profligacy, extravagance, and mismanagement of the landholders, but had, to a certain extent, followed as the unavoidable consequences of defects in the public regulations, combined with inequalities in the assessment, and with the difficulties, obstructions, and delays with which the many nice distinctions and complex provisions of the new Code of Regulations were brought into operation among the illiterate persons who were required to observe them. Mr. Marshman correctly says:—"In the course of seven years, dating from 1793, most of the great zemindárs who had survived the commotions of more than a century, were ejected from the estates of which they had been recently declared the sole proprietors. It was a great social revolution, affecting more than a third of the tenures of land, in a country the size of England."—*History of India, Vol. II, page* 261: and see *Mr. Holt Mackenzie's Minute* § 329, *note*. The Rájá of Bardwán was the only one of the great zemindárs who escaped, and the invention of the *Patní* system is said to have saved him.

* Up to this time they have not become popular or commonly used.

[2] Which remained in force until repealed by Act X of 1859.

arrears exceeding Rs. 500 due from under-tenants, of *arrest* were conferred upon landholders. In the *twenty-first* section, it was stated that these provisions would afford proprietors and farmers the means of realizing their rents with promptness and facility; and that the utmost punctuality would consequently be expected from them in the payment of their revenue to Government; and it was repeated that the Government were still desirous of enhancing the value of landed property, and of promoting, as far as possible, the ease[1] of the proprietors, by considering their property alone a sufficient security for the public dues, without subjecting them to any personal restraint, except in cases of necessity; and therefore forbore to renew the usage of confining proprietors, whilst there could be a hope of realizing the fixed assessment on their lands according to the stipulated periods without resort to this measure. It was enacted then, that when any arrear remained undischarged on the first day of the month succeeding that for which it was due, the Collector was immediately to require payment with interest; and if it were not discharged, or assurance given to the Collector's satisfaction for its immediate payment, he was to *proceed without delay, in the case of proprietors, to attach their estates,* or such portion thereof, as would be sufficient to make good the amount due; and *in the case of farmers, both to attach the farm and any other landed property of the farmer which could be attached* (cl. 6), *and to arrest the persons of the farmer and his surety* (cl. 2, s. 23). In the case of a farmer who had given security, and who the Collector had reason to believe was not about to abscond, the process for confinement was not to issue until after the service of a written demand.

Greater facilities afforded the Zemindárs for collecting their rents.

Prohibition of anticipation of rents.

§ 89.—It had become the practice to defeat attachments by collecting, or pretending to have collected, rents *in advance* from the under-tenants and raiyats. This practice was forbidden, and it was declared that, in case of attachment, no credit would be allowed for rents paid before the stipulated or usual period of payment according to the *kistbándí* or other engagement, or established local usage. If an arrear remained due from a proprietor *at the close of the year*, the Collector was to report the amount to the Board, transmitting at the same time a statement of his lands for sale; and the Board were now, for the first time, authorized to sell *without any reference to the Governor-General in Council,* except in special cases in which they might require instructions (s. 30). If the whole arrear were not recovered from the sale of the defaulter's lands, the deficiency was to be recoverable from any other property he might possess, or by imprisonment of his person (cl. 5, s. 23). Though sales were usually to be made after the close of the year, power was reserved to the Governor-General in Council of ordering a sale of land or other property within the year in any particular case in which he judged it proper. This, however, was now made the exception instead of the rule.

Lands to be sold only at the close of the year.

Board authorized to sell without reference to Governor-General.

Process against farmers.

§ 90.—In the case of farmers, any land or property belonging to them or their sureties was to be brought to public sale as soon as possible after the close of the year,

[1] Some of the zemindárs would have preferred a return to the old system; and from a Minute recorded by the President of the Board of Revenue in July 1799, it appears that some of the Members of the Board recommended, and strongly urged, a recurrence to the former practice of confining the landholders for enforcing the payment of arrears.

and their farming lease might be cancelled, or they might be compelled to perform its conditions until its expiry. In the case of lands or estates coming under the immediate management of the Revenue Authorities—and this included estates managed by the Court of Wards (s. 26)—Collectors were authorized, without any previous application to the Civil Court, to proceed against under-renters of every denomination from whom arrears of rent were due, and against their sureties in the same manner as they were authorized by s. 23 to proceed against farmers and their sureties (s. 25). The village *Patwáris* were to furnish accounts in all cases of attachment; and defaulting proprietors and farmers were to produce, or cause their agents to produce, such accounts as might be required, on pain of *fine*, and, in case of persistent recusancy, of *imprisonment*. In order to ensure accurate materials for assessing the Government revenue on portions of estates, proprietors and farmers were declared liable to fine, if it were proved that the accounts furnished by the *Patwáris* had been fabricated, altered, or changed by their orders, or with their knowledge or connivance. Purchases of land were to be made in the names of the persons actually purchasing, without any fictitious substitution; and defaulting landholders, farmers or their sureties were positively restricted from becoming the purchasers, directly or indirectly, of their own lands, when disposed of at public sale (s. 29).

Realization of rents in estates held khas.

Production of accounts enforced.

Punishment for fabricating accounts.

Purchases *benamí* and by defaulters forbidden.

§ 91.—The above provisions of Regulation VII of 1799 were found materially to promote the objects intended to be attained;[1] but, owing to the indiscriminate attachment of lands, and to the delays which still occurred in bringing portions of estates to sale for the recovery of arrears outstanding at the close of the year,[2] and which were mainly caused by the difficulty of apportioning the assessment, further legislation was found necessary: and Regulation I of 1801 was passed. Collectors were now directed not to attach estates or farms during the first three months of the year without the express sanction and order of the Board of Revenue; nor was an attachment to be made subsequently without such sanction and order, unless the Collector judged it expedient with a view to induce payment of the arrear by the defaulter, or to prevent his misappropriation of the remaining rents of the year, or to obtain accurate information of the assets of the estate for the purpose of disposing of a portion of it by public sale at the close of the year. When for any of these purposes attachment was judged advisable, it might be made after the third month of the year; but *the whole estate was to be attached and not a portion merely.* Whenever the Board and the Collectors did not judge it expedient to attach for any of the above purposes, but were of opinion that the revenue was wilfully withheld, or that the arrear was ascribable to neglect, mismanagement, or misconduct, the Board were declared competent to impose a penalty of one per cent. per mensem on the arrear, in addition to interest. Collectors were to be particularly careful to inform themselves and to report to the Board as to the real cause of arrear, "whether

Regulation I of 1801.

Estates not to be attached without sanction during first three months of the year.

Other rules for attachment.

Penalty imposable in addition to interest in certain cases.

[1] Preamble to Regulation I of 1801.

[2] The period of experiment was very brief, Regulation I of 1801 having been passed in one year and four and a half months after Regulation VII of 1799.

want of good faith on the part of the defaulter, or actual inability from a failure in his rents or otherwise, so that the proper remedy might be applied to the ascertained circumstances of the case, and neither the public interests be injured by unmerited indulgence, nor those of the individual suffer from undue severity" (s. 2).

Further measures to compel the production of accounts.

§ 92.—It had been found that proprietors and farmers withheld the accounts of their estates and farms when attached, and that the penalties already provided were insufficient. The Government therefore declared, that when accounts were so withheld, an immediate sale of the lands and other property of the defaulter would be ordered *within the year*. It had also been found that when lands were ordered for sale, the accounts were withheld and the imposition of a fine was not sufficient to compel their production. The village *Patwáris* were moreover either withdrawn or no longer appointed; and it became in consequence almost impossible to adjust the allotment of the fixed assessment upon portions of estates. It was therefore declared that in future whenever a proprietor refused or wilfully neglected to furnish the accounts required of him, the whole of the estate, instead of a portion only, would be ordered for sale; and if, before the day fixed for sale, the accounts were delivered, it would be competent to the Governor-General in Council, if the sale were countermanded, to impose such fine as he might judge proper (ss. 3, 5).[1]

In case of small estates, personal property might be attached and sold in the first instance.

§ 93.—Instances had occurred in which, from the very small extent of certain estates, from their dispersed situation and inconsiderable produce, it had been found impossible to attach them without an expense altogether disproportionate to the arrear and to the value of the estates themselves; and, in consequence, the proprietors had withheld the amount due, though well able to discharge it. To provide for such cases, the Board were authorized to order the distress and sale of the personal property of the defaulters in the first instance. Collectors were not, however, to adopt this course, except after special report to, and express sanction by, the Board of Revenue.

Portions of estates not to be sold in certain cases.

§ 94.—The sale of portions of estates had proved prejudicial to the public interests by causing too much subdivision, and to the interests of proprietors in consequence of the lots being so inconsiderable as to prevent a competition for the purchase of them.[2] To obviate these results, the Board were authorized, in the case of estates bearing a less annual assessment than Rs. 500 (sicca), to direct the sale of the whole estate, and to take

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[1] As to the importance of accounts, and the mistake committed in abolishing the former system under which the officers of Government were enabled to possess an intimate knowledge of the sources of revenue, see *Mr. Shore's Minute of 18th June*, 1789, §§ 247—252.

[2] In a previous note, it has been shown how the deceptions practised in order to overrate the portions sold and diminish the assessment on the remainder of the estate tended ultimately to the injury of Government, who were obliged to take *khas* possession of the portion sold with its resources reduced below the scale of its assessment, or to render the proprietary right in it worth possessing to a new purchaser by diminishing its assessment of revenue. Such deceptions were of course unavailing in cases where the whole estate was exposed to sale in one lot; but, in the gradual dismemberment of some of the great *zemindáris*, they were for a time successfully practised by the confidential servants of the Rájáhs of Jessore, Nuddea, Bardwán, and other defaulters of rank, sometimes with a view to their own emolument, at others to that of their employers; but in all cases with an effect injurious to the revenue of the State.—*Fifth Report*.

the same course in the case of larger estates, when the portion necessary to be sold, in order to discharge the arrear, would be so large as to leave only an inconsiderable surplus on the sale of the entire estate (s. 6). The necessity of promptness in submitting to the Board statements of lands to be sold at the close of the year was impressed upon Collectors; and as, in consequence of the entire estate being sold, allotment of the assessment would now be necessary in fewer instances, it was presumed that sales would take place within the first or, at the latest, the second month after the expiration of the year. Leases granted by the late proprietor were allowed to run until the end of the year *within which the sale took place* (s. 9).

Sales to be made with more promptness.

§ 95.—The sale of fractional portions of an estate held as joint undivided property, being considered likely to depreciate the value of the property sold from the uncertainty of the assessment and the responsibility attaching to the share of a joint undivided estate, was forbidden without the express sanction of the Governor-General in Council, to be given on a report of any particular case which might appear to require it. The united provisions of Regulations VII of 1799 and I of 1801 appear to have been successful in effecting a more punctual and satisfactory realization of the revenue, as no further legislation was now found necessary for several years.

Portions of estates held jointly not to be sold without sanction. Results of this legislation.

§ 96.—In 1812 the law was repealed, which prohibited proprietors from granting leases for a period exceeding ten years; and they were declared competent to grant leases for any period which they might deem most convenient to themselves and their tenants, and most conducive to the improvement of their estates,[1] (s. 2, Regulation V of 1812). The law requiring leases &c. to be in a particular form to be approved by the Collector was also repealed (s. 3), and the contracting parties were allowed to select such form as they might deem most convenient and most conducive to their respective interests. This Regulation also contained further provisions as to cancelling the engagements and enhancing the rents of tenants on estates sold for arrears of revenue,

Repeal of the law which limited the term of leases to ten years, or required them to be in a particular form.

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[1] The removal of this restriction increased the value of landed property by rendering it much more readily available as a means of raising money. It also had an important result in making proprietors mere annuitants on their estates, the best part of the usufruct of which was granted away under perpetual leases. Seven years after, the Patní Regulation (VIII of 1819) was a legislative recognition of the first great step in that system of subholding which is now fast completing the analogy between the Bengalí raiyat and the Irish cottier. The failure of the rice crop is as fatal to the former as that of the potato crop has proved to the latter. Another result, in a country where there is no law of entail, or law producing similar effects, is that proprietors, by receiving fines for the grant of irrevocable leases, alienate a portion of the future rental to the impoverishment of their posterity. This, coupled with the division of estates which is the necessary result of the operation of the Hindu and Mahomadan laws of inheritance, is fatal to the continued existence of anything like a pure landed aristocracy. The landholders, who are landholders only, are poor; and the cultivators are poor; and the increasing wealth of the country is to be found in the hands of a prosperous middle class, which has sprung into existence under our rule, and is, like the similar class in England, composed chiefly of successful advocates, merchants, bankers, traders, &c. Many of these purchase land, but they are not purely landholders.

Regulation XVIII of 1814.

and on the subject of distraint and attachment for arrears of rent.[1] Regulation XVIII of 1814 enacted that, when any portion of an instalment of revenue payable in any month remained due on the first of the following month, the Collector might have the defaulter served with a written notice of demand, or *without any such notice* might advertise his lands for sale *without the previous sanction* of the Board of Revenue, if such lands constituted an entire estate or the whole of the defaulter's rights and interests in a joint estate. He was then to report to the Board, and was not to proceed to actual sale until receipt of the Board's sanction.[2] This sanction the Board were empowered to give without any previous reference to the Governor-General in Council, whether the arrear were due on account of the current year, or of any former year or years. The previous sanction of the Board was still declared necessary before advertising for sale any lot constituting a part only of the defaulter's property in an estate.

Change in the condition of the country.

§ 97.—The next Regulation was XI of 1822. During the twenty-one years which had elapsed since the passing of Regulation I of 1801, a great change had taken place. The object of the legislation of 1799 and 1801 had been to secure the punctual realization of the revenue assessed at the time of the Permanent Settlement without resort to the old system of confining, and occasionally inflicting corporal punishment upon defaulters. The terror of personal coercion being removed, various devices had been practised to elude payment of the just dues of Government; and, in many instances, these dues, the payment of which was exacted with a punctuality before unknown, had not been discharged, because those who were liable to Government for *revenue* were unable to compel similar punctuality in the payment of *rent* by their *tenants*. Armed, however, with powers for enforcing payment of their rent scarce inferior to those exercised by Government for enforcing payment of its revenue, and taught by experience that persistence in fraudulent devices was sure to result in ultimate loss, the great majority were successfully schooled to punctuality, and cases of default became yearly of less occurrence. The prosperity resulting from more than a quarter of a century's peace largely raised the value of land and so contributed to the ultimate result.[3] In all countries, and not least in Bengal, the possession of land bestows a considerable respectability; and in a country where there were few other objects of speculation or investment, the surplus wealth which began to be slowly put together was eagerly laid

Land eagerly sought as an investment for money.

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[1] As to Regulation V of 1812, &c. see *Kirt Chandra Rai and others* v. *The Government and others*, I Moo. Ind. Ap., 383.

[2] As to sanction after sale not being sufficient, and other important points of construction of the Sale Laws up to and including Regulation XVIII of 1814, see *Máhárájá Mitterjít Singh* v. *The heirs of the late Rani, widow of Rájá Jeswant Singh*, III Moo. Ind. Ap. 42.

[3] At the time of the Permanent Settlement but two-thirds of the land were under culture. A population, rapidly increasing in a country where there are no restraints on multiplication, soon brought the remaining one-third under cultivation in most districts, and the zemindárs at once reaped the benefit in the shape of a considerable direct increase of rent. Another direct source of increase was to be found in the opening up of trade unfettered by internal duties (the sayer being abolished) and the ready market which surplus produce found in consequence.

out in the purchase of that which, in addition to other advantages, possessed that of immovability—a very desirable quality when the system of Police was defective, and the possession of valuable movables was sure to tempt the cupidity of the numerous gangs of dakaits which infested the country, or even of the Police themselves.[1] Land thus became unusually valuable, and, where arrears had been suffered to accrue, owing to temporary apathy, or mismanagement, or negligence, or dishonesty of agents; and, in consequence, an estate had been brought to sale by the inexorable Revenue Authorities, flaws in their proceedings were eagerly searched for, and the Civil Courts were resorted to for the purpose of setting aside sales at, or in the procedure antecedent to, which irregularities had been discovered. The rights of auction-purchasers not being very exactly defined by the Regulations, formed moreover a constant source of litigation. Accordingly, we find the Legislature in 1822 no longer devising means for bringing home their liability for arrears to proprietors and farmers, but improving the procedure of the Revenue Authorities, declaring what irregularities should be held material and what immaterial, and defining the exact interest acquired by purchasers at public sales.

Preamble to Regulation XI of 1822.

Necessity for making Sale Procedure more exact,

And for a discretion to annul sales in certain cases.

§ 98.—The preamble of Regulation XI of 1822 commences thus:—"The existing Regulations relative to the public sale of estates for the recovery of arrears of revenue appear to be defective, inasmuch as they do not specify the conditions which are to be held necessary to the validity of such sales, nor define with sufficient precision and accuracy the nature of the interest and title conveyed to the persons purchasing estates so sold. Various doubts have accordingly arisen on both these questions, which it appears necessary and proper to remove by a legislative enactment; and it is also expedient further to regulate the course of proceeding to be hereafter followed in regard to sales of the above description, in order better to guard against error or irregularity in the conduct of them. With the view, too, of securing the zemindár from the risk of that injury and hardship which experience has shown must in many individual cases result from the absolute confirmation of sales in all cases in which the prescribed conditions have been observed, it has appeared desirable to vest the Revenue Boards with the power of annulling sales made by the Collectors under their authority, not only in cases in which they may appear to have been irregularly conducted by those officers, but also in cases in which the defaulter may clearly appear to have been defrauded or deceived by his own agents, or in which the confirmation of the sale may from any cause appear to be a measure of excessive severity, or to be otherwise inexpedient or improper."

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[1] "The establishment of an efficient Police, though an object of the first importance, appears to have been a part of the new internal arrangements in which the endeavours of the Supreme Government have been the least successful."—*Fifth Report.* The Government had taken the Police Administration on themselves, relieving the landholders of this duty and resuming the lands which had been held by the *zemindári paiks.* The landholders were in consequence obliged to turn these men adrift, and they took to professional thieving, their operations being immensely facilitated by the great local knowledge which they had previously acquired. In the Bardwán zemindárí, there had been no less than nineteen thousand of these *paiks.*

§ 99.—So much of the previously existing law was now repealed as prescribed that Revenue Officers should issue any process of demand upon persons from whom arrears of revenue or other demands similarly recoverable were due; or that they should attach the estates or farms in the possession or management of such defaulters before bringing their property to a public sale, as also any portions of the Regulations which restricted the powers of the Revenue Officers in selecting lands for sale, or in fixing the period of the sale (s. 2). It was declared and provided that—as the Regulations of Government had made the estates of proprietors primarily answerable by public sale for any arrears in the monthly payments of the revenue; and as the property of all persons under stipulations with Government, whether as proprietors for their own estates, or as farmers or managers, and their sureties, were likewise answerable for such arrears—the Collectors, with the sanction of the Board of Revenue, were entitled to have recourse to this process for the realization of any arrear or interest thereon, or other revenue demand that might be due from parties so under engagements, *whether any other revenue process should or should not have been issued, and at any time of the year when the same might be unpaid,* subject only to such rules and restrictions as were specifically prescribed by the Regulations (cl. 1, s. 3).

Provisions of Reg. XI of 1822. Repeal of the law requiring preliminary written demands or attachments, &c.

§ 100.—Estates under the management of the Court of Wards were declared not liable to sale for arrears accruing during the period of such management.[1] Joint estates were not to be liable to sale for arrears that might accrue during the progress of a partition (batwara) until the expiration of the year within which the arrear became due,[2] and estates under attachment by orders of a Court of Justice were not to be liable to sale in the middle of the year[3] for arrears which accrued during such attachment (cls. 2 and 3 of s. 3).

Estates exempt from sale in certain cases.

§ 101.—The conditions necessary to the validity of a sale were declared to be—I.—That the lands sold should form the estate, or part of the estate, on account of which the arrear had accrued; or be the property of the defaulter, or of his surety; or, not being the property of such, have been specially pledged to answer the demand in arrear. II.—That the Board's permission for the sale had been received previous to the day of sale. III.—That due notice of the demand, of the Collector's intention to sell, and of the time and place of sale, had been given. IV.—That some part of the amount demanded in the notice, or of the interest payable thereupon, should have been due at the time of the lot being put up for sale. V.—That the sale had been made at the time and place stated in the advertisement, and with due publicity and freedom.[4] If these

Conditions necessary to the validity of sale.

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[1] See now section 17, Act XI of 1859. It may be a question whether a joint estate, one share in which is under the management of the Court of Wards, will be protected from sale by this section, when arrears accrue upon the other share or shares not under such management. If it is so protected, it is not apparent how the arrears are to be recovered, for the Sale Law supposes a sale to have taken place before any other process is resorted to (see section 15, Act VII (B.C.) of 1868). Probably the protection does not extend to such cases.

[2] This was repealed by section 1, Act XX of 1836.

[3] See now section 17, Act XI of 1859.

[4] The Revenue Authorities might postpone the sale, but due notice of postponement was to be given (s. 8).

conditions had been observed, and if the sale had been confirmed by the superior Revenue Authorities, the sale could not be annulled, set aside, or altered by a Court of Justice; but any person alleging himself to have been endamaged, might sue for damages the person by whose fault he considered himself endamaged (ss. 4, 5).

Jurisdiction of the Civil Courts in cases of sale.

§ 102.—Rules were also laid down for the conduct of sales, the refusal to accept bids, the course of procedure when defaulters or revenue officers purchased *benami*, the appropriation of the purchase-money, and other matters. No sale was to be deemed absolute, or to entitle the purchaser to assume possession, until the confirmation of the Board had been received. The Board was vested with full authority to annul a sale on petition or otherwise.

Rules for conduct of sales &c.

§ 103.—When land other than that upon which the arrear had accrued was sold, the purchaser was to acquire merely the rights, interests, and title of the previous owner, just as if the land had been sold by private sale, or under a decree of Court, in liquidation of a private debt.[1] He did not, like a purchaser at a sale for arrears which had accrued on the *very land sold*, acquire a statutory title free from incumbrances (s. 29). From the rule which avoided all incumbrances in the event of such a sale were now exempted *khúdkhasht kadimí* raiyats or resident and hereditary cultivators, who were not to be ejected by the auction-purchaser, though their rents might be enhanced after service of notice.[2]

Rights of purchasers defined.

§ 104.—Although the whole of Regulation XI of 1822 has been repealed by more recent legislation, many of its most essential provisions are to be found in the existing Sale Law. After the passing of the above Regulation, nearly twenty years more elapsed before any comprehensive measure engaged the attention of the Legislature. That instances of default, though few in comparison with the years immediately following the Permanent Settlement, had yet not ceased altogether, would appear from the passing of a short Regulation (XII) in 1824, which revived the penalty of twelve per cent. per annum on arrears in addition to interest, which penalty had been abolished by Regulation V of 1812. On the whole, however, it is tolerably clear that the system of realizing the revenue introduced by the British Government[3] had by this time succeeded, if not as

The essential provisions of this Regulation incorporated in the existing law.

Penalty revived.

New system at last successful.

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[1] This is practically still law, as a purchaser at a sale in execution of a certificate under Act VII (B.C.) of 1868 (see *post*) is in the same position as a purchaser at a sale in execution of a decree of a Civil Court.

[2] See now section 37, Act XI of 1859, which protects a more extended class.

[3] "The sale of land by auction, or in any other way, for realizing arrears of land revenue, appears to have been unusual, if not unknown, in all parts of India before its introduction by the British Government into the Company's dominions," and again, "Under the British administration, down to the period of the introduction of the Permanent Settlement and the new Code of Regulations, it had not been usual to resort to the sale of land for the recovery of the arrears of revenue"—and in a Minute recorded in the proceedings of the Board of Revenue in July 1799, it is asserted that "from the Company's acquisition of the ceded lands (consisting of the 24-Parganas and the Districts of Bardwán, Midnapore and Chittagong) comprehending, until the formation of the Permanent Settlement, a period of thirty years; and from the accession to the Díwaní until the

fully as its original projectors had expected, at least sufficiently well to enable the revenue to be realized without loss.

Regulation VII of 1830.

§ 105.—The last of the Regulations concerned with the recovery of arrears of revenue was Regulation VII of 1830, which authorized Collectors to advertise estates in balance for sale, and proceed to actual sale without any previous reference for the sanction of the Commissioner, who had been appointed under the provisions of Regulation I of 1829, and to whom had been delegated some of the more immediate functions of the Board.[1] No sale was, however, to be final until it had been confirmed by the Commissioner. All estates in balance were *by an invariable rule* to be advertised for sale at the expiration of one month from the date of the arrear becoming due, and to be sold one month after the date of the advertisement. Penalty and interest were directed to be consolidated, and to be denominated "*consolidated penalty and interest*," and defaulters were to be subject to this demand at the rate of 25 per cent. per annum on the arrear of revenue due. Collectors were declared not competent to grant any remission thereof without the special sanction of the Commissioner or the Board.

Sale without previous sanction legalized, but subsequent confirmation necessary, &c.

Act XII of 1841. Levy of interest and penalty discontinued.

§ 106.—The next important enactment was Act XII of 1841, under the provisions of which the levy[2] of interest and penalty upon arrears was discontinued. The Board of Revenue were authorized to fix *for the permanently settled districts* particular dates on which should be commenced the process for realizing by sale of mahals or

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abovementioned time, there had hardly an instance been found of the property in landed estates having changed hands by cause of debts, either public or private; certainly of the large ones none."—*Fifth Report.* That sale of land for arrears of revenue was not *unknown* under the Mogul administration will however appear from *Appendix No.* 14 *to Mr. Shore's Minute of* 2*nd April* 1788. What the natives thought of the new system at first may be gathered from the following passage in a letter from the Collector of Midnapore, dated 12th February 1802: "All the zemindárs with whom I have ever had any communication, in this and in other districts, have but one sentiment respecting the rules at present in force for the collection of the public revenue. They all say that such a harsh and oppressive system was never before resorted to in this country; that the custom of imprisoning landholders for arrears of revenue was in comparison mild and indulgent to them; that though it was no doubt the intention of Government to confer an important benefit on them, by abolishing this custom, it has been found by melancholy experience that the system of sales and attachments, which has been substituted for it, has in the course of a very few years reduced most of the great zemindárs in Bengal to distress and beggary, and produced a greater change in the landed property of Bengal than has perhaps ever happened in the same space of time in any age or country by the mere effect of internal regulations."—*Consuetudo omnium domina rerum.*—What would their descendants say now, if a return were made to the "mild and indulgent" system of former days?

[1] In the North-Western Provinces, the *previous sanction* of the Board is still necessary to a sale; and a sale is resorted to only when other processes are not sufficient for the recovery of the arrear.—See section 166, Act XIX of 1873. In the Lower Provinces on the contrary, a sale is the first process.

[2] Section 2, which enacted that there should be no demand of interest or penalty upon any arrear of land revenue *falling due after* 1*st January*, 1842, is still in force in the Lower Provinces, the first six words and the words in Italics merely having been repealed. It has been wholly repealed as to the North-Western Provinces, but re-enacted in section 148, Act XIX of 1873.

estates the arrears of land revenue due thereupon. Due notification of such dates was to be made by publication in the Gazette and otherwise. The days so fixed were not to be changed, except by notification in the same way, made at least three months before the close of the official year preceding that in which the new dates were to have effect. Another notice was to be given for a period of not less than fifteen clear days previous to each fixed date of sale (s. 3).[1] In districts *not permanently settled*, no sale was to take place for arrears of land revenue or other demand of Government without the special sanction of the Board of Revenue obtained in each case (s. 4).[2]

Dates to be fixed for commencing Sale process.

§ 107.—An arrear of revenue was defined to be the whole or a portion of a *kist* or instalment of any month of the year, according to which the settlement and *kistbandi* of any mahal have been regulated, remaining unpaid on the first of the following month of such year (s. 5).[3] All estates, from which at *sunset of the day preceding that fixed for sale* an arrear remained due, were on such fixed day to be put up to public auction and sold to the highest bidder; and no payment or tender of payment, made subsequent to sunset of such day, was to bar the sale (s. 6).[4]

Definition of an "Arrear."

Sale for arrears.

§ 108.—No sale was to be void or voidable by reason of any claim to abatement or remission not actually allowed by Government, or by reason of any private demand or cause of action against Government, or by reason of money belonging to the defaulter being in the Collector's hands, unless such money stood in the defaulter's name alone and without dispute, and the Collector, after application made in due time, neglected to transfer it to the credit of the estate (s. 7).[5]

Claim against Government not to make sale voidable.

§ 109.—In the case of—I, Arrears due from, or to be recovered by the sale of, estates *not permanently settled*; II, Arrears *other than those of the current or of the preceding year*; III, Arrears due on account of *estates other than those to be sold*; IV, Arrears of estates[6]

Special notice necessary before sale in certain cases.

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[1] These provisions were re-enacted with slight alterations and additions in Acts I of 1845 and XI of 1859 (the existing Sale Law). The dates to be now fixed by the Board are *the dates upon which all arrears of revenue and all demands, which by the Regulations and Acts in force are directed to be realized in the same manner as arrears of revenue, shall be paid up*. As soon as possible after such *latest day of payment* the Collector is to fix the *day of sale*, which must be not less than fifteen or more than thirty clear days from the date of affixing the sale notification in the Collector's office (see sections 3 and 6 of Act I of 1845, and sections 3 and 6 of Act XI of 1859).

[2] This was re-enacted by section 4, Act I of 1845; but the existing Sale Law (Act XI of 1859) makes no distinction between *districts permanently settled* and *districts not permanently settled*, latest dates of payment being fixed for both alike.

[3] Section 2, Act I of 1845, and section 2, Act XI of 1859, are the same *verbatim*, "era" being substituted for "year."

[4] Section 6 of Act I of 1845, and section 6 of Act XI of 1859 correspond, with this difference, that, under the provisions of these sections, payment can be made only up to *sunset of the latest day of payment*.

[5] Re-enacted *verbatim* in section 8, Act I of 1845, and section 8, Act XI of 1859.

[6] "Estates under attachment" here includes *portions* of estates. An attachment under the Code of Civil Procedure is not superseded by the appointment of a manager.—*Banwari Lal Sahu* v. *Mahabir Persad Singh and others*, XII B. L. R. 297 and I L. R. I. A. 89.

under attachment by order of the judicial authorities; V, Arrears due on account of *tuccavi, pulbandi* or other *demands*, not being land revenue, but *recoverable by the same process as arrears of land revenue*—no estate was to be sold otherwise than after the publication, for not less than *fifteen* clear days before the sale, of a notification specifying the nature and amount of the arrear or demand, and declaring that no payment or tender of such arrear or demand made after sunset of the day preceding the fixed day of sale should bar the sale (s. 8.)[1]

§ 110.—Collectors were authorized, at any time before sunset of the day preceding that fixed for sale, to receive as a deposit from any party, *not being a proprietor of the estate in arrear*, the amount of such arrear, unless before that time the arrear had been liquidated by the proprietor. If the depositor were a plaintiff in a suit pending before a Court for the possession of the estate, or any part thereof, the District Judge was empowered to put him into temporary possession, subject to the rules for taking security from parties; and if he proved before a competent Court, that the deposit was made to protect an interest which would have been endangered or damaged by the sale of the estate, he was to be entitled to recover the deposit with interest from the proprietor (s. 9).[2]

Deposit by persons, other than proprietors, to save estate from sale.

§ 111—Estates were not to be liable to sale for arrears which accrued while they were under the management of the Court of Wards. Estates, the sole property of minors, and regularly descended to them by course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which such Court had not assumed the management, were not to be sold for arrears which had accrued after the succession of the minors, until they, or, in the case of more than one, some one of them had attained the full age of eighteen years. Estates under attachment by the Revenue Authorities, *otherwise* than by order of a Judicial Authority, were not to be sold for arrears accruing during the period of such attachment. Estates held under attachment by a revenue officer by order of a Judicial Authority were not to be sold for arrears accruing during the attachment, until the end of the year in which such arrears accrued (s. 10).[3]

Estates not to be sold for certain arrears.

§ 112.—The Collector was empowered to exempt an estate from sale at any time before the sale commenced. The Commissioner might do the same by a special order to

Power to exempt from sale.

[1] Section 5, Act I of 1845, and section 5, Act XI of 1859, correspond, but with this difference, that the notification now specifies also the *latest day of payment*—the latter section does not contain the *first* of the above heads—and the *fourth* of them has been amended by the addition of the words "or managed by the Collector in accordance with such order"—(see Regulation V of 1827).

[2] Re-enacted *verbatim* in section 9, Act I of 1845. Section 9, Act XI of 1859, is the same, with the following alteration and additions:—*The court in which the suit is pending*, instead of the District Judge, may put the depositor in possession. The deposit is to be recovered with *or without interest*. The following words are added to the section:—"And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such Court that the deposit was necessary, in order to protect any lien he had on the estate, or share, or part thereof, the amount so credited shall be added to the amount of the original lien."

[3] Re-enacted *verbatim* in section 10 of Act I of 1845, and in section 17 of Act XI of 1859.

the Collector, and a sale after the receipt of such an order was to be illegal. The reason for granting the exemption was to be recorded (s. 11).[1] Sales were ordinarily to be made by the Collector or other officer duly authorized by Government, and in the Land Revenue Kachahrí at the Sadr station of the district. The Board might, however, prescribe any other place which they considered beneficial to the parties (s. 12).[2]

Sale by whom and where to be made.

§ 113.—When the Collector or other officer was, from sickness, the occurrence of a holiday, or other cause, unable to commence or complete the sale on the day fixed, he was to adjourn it to the next open day, recording his reasons for adjourning, and sending a copy thereof to the Commissioner. When a second or further adjournment was necessary, the same course was to be followed (s. 13).[3] Estates were to be sold in regular order; that bearing the lowest number on the *taujih* or Collector's register to be first put up, and then proceeding up in regular sequence (s. 14).[4]

Adjournment of the sale.

Order of selling.

§ 114.—Persons declared purchasers were to deposit immediately, either in cash, Bank of Bengal notes, post-bills, or Government Securities, *twenty-five* per cent. of the amount bid; and in default of such deposit, the estate was to be forthwith put up again and sold (s. 15).[5] The balance of the purchase-money was to be paid before sunset of the *thirtieth* day, counting inclusive of the date of sale; and, if the thirtieth were a holiday, then on the first open office day after. In default, and as often as default occurred, the deposit was to be forfeited and the estate re-sold after a fresh notification; and in the event of the amount subsequently bid being less than the price bid by the defaulter, the difference was to be realizable from him *by any process authorized for realizing an arrear of land revenue* (s. 16).[6] When an estate had been sold, the Collector or other officer was to issue a proclamation to the raiyats and under-tenants, forbidding them to pay rent falling due subsequent to the date of sale (s. 17).[7] As soon as the sale became final and conclusive, he was to give the purchaser a Certificate of title, which was

Purchasers to deposit 25 per cent. of the money at once.

Balance when to be paid.

Notice of sale to tenants.

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[1] Re-enacted *verbatim* in section 11 of Act I of 1845, and in section 18 of Act XI of 1859.

[2] Re-enacted *verbatim* in section 12 of Act I of 1845, and in section 19 of Act XI of 1859.

[3] Re-enacted *verbatim* in section 13 of Act I of 1845, and in section 20 of Act XI of 1859.

[4] Re-enacted *verbatim* in section 14 of Act I of 1845, and in section 21 of Act XI of 1859, with the addition of the words "except where it may be necessary to do so on default of deposit, as provided in section 22 of this Act."

[5] Re-enacted *verbatim* in section 15 of Act I of 1845, and in section 22 of Act XI of 1859

[6] Re-enacted with slight alterations by section 16 of Act I of 1845, and by section 23 of Act XI of 1859, which latter enacts that such difference is to be regarded as part of the purchase money and dealt with accordingly. Section 16 of Act I of 1845 further enacted that the notification of re-sale was not to issue until the expiry of three clear days after the day of default; and payment or tender of the original arrear, together with any revenue which might have subsequently fallen due, by or on behalf of the proprietor before sunset of the day preceding the day notified for re-sale, was to bar such resale. This has been re-enacted in section 24 of Act XI of 1859.

[7] Under the existing law this is done *as soon as the estate or share of an estate is notified for sale* (section 7 of Act I of 1845, and section 7 of Act XI of 1859); and they are forbidden to pay rent to the defaulter *from the day after the latest day of payment*.

to be deemed sufficient evidence of title in any Court of Justice; and the transfer was then again to be notified by a further proclamation (s. 21).[1]

Appeal against sale.

§ 115.—An appeal against the sale was allowed to be presented to the Commissioner before the *fifteenth*[2] day from the sale, or to be delivered to the Collector for transmission to the Commissioner before the *tenth*[3] day. The Commissioner was declared competent to annul any sale which appeared to him *not to have been conducted according to the provisions of the Act*, and where the sale was occasioned by the neglect of the proprietor, he might award a moderate compensation payable by him to the purchaser (s. 18).[4]

In what cases sale might be annulled.

Where, although the provisions of the Act had been complied with, there appeared to the Commissioner to be *hardship or injustice*, he might suspend the passing of final orders and represent the case to the Board, who, if they saw cause, might recommend to Government to annul the sale and restore the estate to the proprietor on such conditions as appeared equitable and proper (s. 19).[5] The annulment of a sale was to be notified in the same manner as its becoming final and conclusive; and the purchase-money was to be returned to the purchaser with interest at the highest rate of public securities (s. 23).[6]

Jurisdiction of Civil Courts to set aside sales.

§ 116.—No sale was to be set aside by a Court of Justice, except upon the ground of its having been made *contrary to the provisions of the Act;* and except the contravention thereto had been declared and specified in an appeal to the Commissioner; and except the action in the Civil Court had been instituted within one year from the date of the sale becoming final. No person who had received any portion of the purchase-money was allowed to contest the legality of a sale (s. 25).[7] When a sale was reversed by a Court of Justice, the purchase-money was to be refunded with interest at the highest rate of public securities (s. 26).[8] Any suit brought to oust the certified purchaser, on the ground that the purchase was made on behalf of another person though by agreement the name of the certified purchaser was used, was to be dismissed with costs (s. 22).[9]

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[1] Re-enacted in part of section 20 of Act I of 1845, and in section 28 of Act XI of 1859.

[2] Enlarged to 60 days by section 2 of Act VII (B.C.) of 1868.

[3] Enlarged to 45 days by section 2 of Act VII (B.C.) of 1868.

[4] Re-enacted in section 17 of Act I of 1845, and in section 25 of Act XI of 1859, and now embodied in section 2 of Act VII (B.C.) of 1868.

[5] Re-enacted *verbatim* in section 18 of Act I of 1845, and in section 26 of Act XI of 1859.

[6] Re-enacted *verbatim* in section 22 of Act I of 1845, and with a slight addition in section 32 of Act XI of 1859.

[7] Re-enacted *verbatim* in section 24 of Act I of 1845, and also in section 33 of Act XI of 1859, with the addition of the words "and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of" after "contrary to the provisions of this Act." See *Maharaja Mahashur Singh Bahadur* v. *Babu Hurruck Narain Singh and others*, IX Moo. Ind. Ap., 268. The personal action for damages still remains. If there is no arrear, there is no jurisdiction in the Collector to sell, and a civil suit will lie for the reversal of the sale.—*Baijnath Sahu and others* v. *Lala Sithal Persad and others*, II B. L. R. F. B. 1; *Mangina Khatun and others* v. *The Collector of Jessore*, III B. L. R. App. 145.

[8] Re-enacted *verbatim* in section 25 of Act I of 1845, and in section 35 of Act XI of 1859.

[9] Re-enacted *verbatim* in section 21 of Act I of 1845, and in section 36 of Act XI of 1859.

§ 117.—When the purchase-money had been paid up, and no appeal preferred, the sale became final and conclusive at noon of the *thirtieth* day from the date of sale, counting inclusive. When an appeal had been preferred, but dismissed, the sale became final from the date of such dismissal, if more than thirty days from the date of sale; if less, then on the *thirtieth* day (s. 20).[1] The purchase-money was to be applied, *first*, to the liquidation of all arrears due from the estate upon the latest day of payment; *secondly*, to the liquidation of all outstanding demands debited to the estate in the public accounts of the district. Any balance that remained was to be paid to the late proprietors—according to their shares if recorded; on their joint receipt, if not recorded. It was not to be available to private creditors save in execution of a decree of Court (part of s. 21).[2]

Sale when final and conclusive. Application of the purchase-money.

§ 118.—The certified purchaser was to be liable for all instalments of Government revenue which fell due *after the day of sale* (s. 24).[3] Purchasers of *estates sold for the recovery of arrears due on account of the same in the permanently settled districts* were to acquire such estates free from all incumbrances which might have been imposed on them after the time of settlement, and were declared entitled, after notice duly given, to enhance the rents of all under-tenures, and to eject all under-tenants with the following exceptions:—

Rights and liabilities of purchasers—In permanently settled districts.

I.—*Istimrari* or *mukarrari* tenures held at a fixed rent *more than twelve years before the Permanent Settlement.*[4]

II.—Tenures existing at the time of the Decennial Settlement, but not proved to be liable to increase of assessment on the grounds stated in section 51, Regulation VIII of 1793[5] (*i.e.* (1) special custom; (2) conditions of tenure; (3) previous abatement).

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[1] Re-enacted *verbatim* in section 19 of Act I of 1845, and in section 27 of Act XI of 1859: but the time has now been extended to *sixty* days by section 4 of Act VII (B.C.) of 1868.

[2] Re-enacted in part of section 20 of Act I of 1845, and in section 31 of Act XI of 1859.

[3] Re-enacted in section 23 of Act I of 1845, and in section 30 of Act XI of 1859, substituting "*after the latest day of payment.*"

[4] The same class exactly was protected by clause 1 of section 26 of Act I of 1845; but clause 1 of section 37 of the present law (Act XI of 1859) substitutes "from the time of the Permanent Settlement" for the words above in italics

[5] Clause 2 of section 26 of Act I of 1845 is *verbatim* the same, but clause 2 of section 37 of Act XI of 1859 is as follows:—"Tenures existing at the time of settlement, which have not been held at a fixed rent, provided always that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures" Under the clause of Acts XII of 1841 and I of 1845, the tenures, if shown to be in existence at the time of the Decennial Settlement, were protected from enhancement unless the auction-purchaser could prove their liability thereto; under the clause in Act XI of 1859, the tenant is protected from ejectment, but is liable to enhancement unless he can prove that he held at a fixed rent from the time of the Permanent Settlement. The burden of proof in this latter case is, however, considerably lightened by the 20 years' presumption of sections 4 and 16 of Act X of 1859 corresponding to sections 4 and 17 of Act VIII (B.C.) of 1869.

III.—Lands held by *khúdkásht* or *kadimi* raiyats having rights of occupancy at fixed rents, or at rents assessable according to fixed rules under the Regulations in force.[1]

IV.—Lands held under *bonâ fide* leases at fair rents, temporary or perpetual, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship, burying grounds, clearing of jungle, or the like beneficial purposes, such lands continuing to be used for such purposes.[2]

V.—Farms granted in good faith at fair rents and for specified areas, for terms not exceeding twenty years, under written leases, registered within a month from their date, and of the particulars of which written notice had been given to the Collector (s. 27).[3]

In districts not permanently settled.

§ 119.—The purchasers of estates in *districts not permanently settled* acquired the estates free from all incumbrances imposed after settlement, and were declared competent to avoid and annul all tenures which originated with the defaulter or his predecessors, as well as all agreements with raiyats or the like, settled subsequent to the last settlement as well as all tenures which the first engagor was, under the conditions of his settlement, competent to set aside, alter, or renew—*with the following exceptions, viz. bonâ fide* leases of ground for the erection of dwelling-houses, or buildings, or for offices belonging thereto, or for gardens, tanks, canals, water-courses, or the like purposes, which were protected so long as the land was duly appropriated to these purposes. Purchasers were not, however, entitled to demand higher rents from persons whose tenures or agreements were thus annulled, unless the lands had been held at lower rates of rents than were justly demandable, either through favour, or for a consideration, or the like; or unless it

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[1] Clause 3 of section 26 of Act I of 1845 is *verbatim* the same; but this class finds no place in section 37 of Act XI of 1859, which, however, protects from ejectment, though not from enhancement, raiyats having a right of occupancy at fixed rents, or rents assessable according to fixed rules under the laws in force—(See proviso).

[2] Clause 4 of section 26 of Act I of 1845 is *verbatim* the same. Clause 4 of section 37 of Act XI of 1859 differs slightly. It speaks of *leases* of lands whereon dwelling-houses, &c. *have been* erected, or whereon gardens, &c. *have been* made, or wherein mines *have been* sunk, and says nothing about the lands *continuing* to be used for these purposes. The rent can, moreover, be enhanced, if the purchaser can show that it was originally an unfair rent, or that the lands have not been held at a fixed rent equal to the rent of good arable land for a term exceeding twelve years, but not otherwise.

[3] The exception did not extend to leases objected to by the Collector with the sanction of the Commissioner within three months after notice. A purchaser might, moreover, sue to set them aside on the ground of their not having been granted in good faith at fair rents. The same clause is repeated *verbatim* in section 26 of Act I of 1845, but is not found in section 37 of Act XI of 1859. The third clause of this latter section, however, somewhat supplies its place, *viz.* "*talukdari* and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates: and farms for terms of years so held, when such tenures and farms have been *duly registered under the provisions of this Act.*" This registration and the protection sought to be afforded thereby to under-tenures were the effectuation of one of the objects of the framers of Act XI of 1859.

were shown that, according to the custom of the *pargána, mauzah,* or other local division, such persons were liable to be called upon for any new assessment or other demand not interdicted by the Regulations of Government (s. 28).[1]

§ 120.—The Local Government were authorized to direct any sale to be made subject to the leases, assignments, or other incumbrances with which the proprietor or his predecessors had burthened the estate, or to such of them as appeared proper. Notice of this condition was to be given at the time of sale. If, however, the amount realized by such sale were insufficient to satisfy the arrear, or if there appeared reason to believe that the future realization of the Government revenue would be endangered by this restriction, the sale might be cancelled, and a new sale ordered without restrictions (s. 29).[2]

Government might direct sale subject to incumbrances.

§ 121.—Purchasers of estates *sold for arrears or demands other than those accruing on such very estates,* acquired them subject to all incumbrances existing at the time of sale, and did not acquire any rights in respect to raiyats and under-tenants which were not possessed by the previous proprietor at the time of sale. The same rule applied to proprietors or co-partners, recorded or unrecorded,[3] who purchased in their own name, or in the name of some other person, or after the sale by re-purchase or otherwise recovered possession of the estate.[4] From this rule, however, were excepted co-partners of estates under *batwara* (partition), who had saved their shares from sale under sections 33 and 34 of Regulation XIX of 1814 by payment of their proportionate share of the balance due (s. 30).[5] Arrears of rent due to the defaulter from the tenants at the date of sale were to be recoverable by him after sale by any process which might have been used by him before the sale, except distraint (s. 31).[6]

Purchase when subject to incumbrances.

Exceptions.

Arrears of rent how recoverable by defaulting proprietor.

§ 122.—Such were the provisions of Act XII of 1841, passed on the 19th of July of that year, during the Governor-Generalship of Lord Auckland, and a few months before the outbreak at Kabul, the murder of Sir Alexander Burns, and the commencement of the last scene in the memorable Afghan expedition. These provisions were re-enacted with slight modifications[7] four and a half years afterwards in Act I of

Law substantially settled by Act XII of 1841.

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[1] Re-enacted *verbatim* in section 27 of Act I of 1845, and again in section 52 of Act XI of 1859.

[2] Re-enacted *verbatim* in section 28 of Act I of 1845, but omitted from Act XI of 1859.

[3] *i.e.* in the Collector's register—See section 21 of Regulation VIII of 1800.

[4] These provisions were rendered necessary in consequence of proprietors intentionally allowing estates to fall into arrear, so that they might be sold and freed from incumbrances. The former proprietor then purchased (*benámi*) through some of his creatures, and a gross fraud was perpetrated upon persons who had paid the proprietor or his predecessor heavy fines for their leases.

[5] Re-enacted *verbatim* in section 29 of Act I of 1845, and in section 53 of Act XI of 1859, which latter section contains a further exception, *viz.* "sharers with whom the Collector, under sections 33 and 34 of the Act, has opened separate accounts."

[6] Re-enacted *verbatim* in section 30 of Act I of 1845, and in section 55 of Act XI of 1859, which has "latest day of payment" for "date of sale."

[7] These modifications have all been pointed out in the preceding notes. It may, however, be useful to note here that two of them only were important. *First,* under Act XII of 1841 the estate was sold on the day following that fixed for payment. The objection to this was that there was no due notification of the actual sale, that persons likely to purchase had no reasonable opportunity of

1845,[1] and are still to be found in almost their original form in Act XI of 1859, the existing Sale Law for the Lower Provinces of Bengal. Thus the Legislation of 1841, *forty-eight years after the Permanent Settlement*, at length settled the general principles by which sales of land for recovery of arrears of revenue were to be regulated. When, eighteen years afterwards, in 1859, fresh legislation was considered advisable in connection with this subject, the occasion for such legislation arose, not so much from any necessity of altering what had been done in 1841, or remedying defects which time had brought to light in the working of the law as then settled, as from the expediency of affording protection to new interests which had sprung into existence during a further period of progress and prosperity. Before passing, however, to the provisions of this Act, I may notice one or two intermediate enactments which have a certain connection with the present subject.

Act XVI of 1842.

§ 123.—Act XVI of 1842 enacted, in modification of sections 2 and 3 of Regulation XVI of 1812, that proprietors might grant leases, or fix the rents of land tenures for any period not exceeding the terms of their own respective engagements with Government, provided that if a lease were granted, or the rent fixed for a longer period, the lease or engagement should be null and void only for the excess.[2] The Regulation, and therefore the Act, applied to no part of the Lower Provinces, except the district of Cuttack and the parganas formerly dependent upon that district, but since annexed to Midnapore, for which tracts a Permanent Settlement had not been concluded. Act IV of 1846 for the first time authorized the Civil Courts in the Lower Provinces of Bengal to attach and sell lands in execution of their decrees without any application or reference to the Revenue Authorities; and it declared that sales in execution of decrees were to be of the nature of private transfers, *i.e.* purchasers acquired the incumbrances as well as the rights of former owners.

Act IV of 1846. Sales in execution of decrees.

§ 124.—Act XX of 1848 softened the rigour of the law as to *daily fines* upon proprietors or farmers omitting or refusing to attend, or cause their agents to attend or furnish accounts or other documents. No daily fine was to exceed *fifty rupees*. Collectors were now for the first time empowered to impose such fines. The imposition and levy was however to be reported by the Collector to the Commissioner, and by the latter to

Act XX of 1848. Daily fines.

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coming forward, and that estates were therefore sold for less than they would otherwise have fetched, which was unfair to defaulters. Then Collectors had orders to buy for Government when the biddings did not go up to the balance due, and so it was said that Government enjoyed an unfair advantage. Section 6 of Act I of 1845 remedied this by providing for a notification of sale after the last day of payment. *Secondly*, when there is a re-sale, owing to default in payment of the purchase-money, section 16 of Act I of 1845 gave the defaulting proprietor an opportunity, which he had not before, of paying up all arrears before sunset of the day preceding the day fixed for re-sale, and so saving the estate. A proprietor might therefore gain time and save his estate by paying a penalty of 25 per cent. for he could get some one to bid at the sale and make the usual deposit which, when it was forfeited, there would be a fresh notification for re-sale, and he could pay up before the re-sale took place.

[1] Lord Hardinge was Governor-General when Act I of 1845 was passed, just before the first Sikh War.

[2] This Act was repealed by Act VIII of 1868.

Government. The orders imposing them were made appealable, and not more than Rs. 500 were to be levied without the special authority of the Commissioner.

§ 125.—Act XII of 1850 enacted that all public accountants should give security for the due discharge of their trusts and for the due account of all monies coming into their possession. Persons entrusted, by reason of their office, with the receipt, custody, or control of any monies, or securities for monies, or with the management of lands, were declared to be *public accountants;* and the head of the office in which they were employed was authorized to proceed against them and their sureties for any loss or defalcation in their accounts, *as if the amount thereof were an arrear of land revenue due to Government.* It was also enacted that all Regulations and Acts then or thereafter to be in force for the recovery of arrears of land revenue and for recovery of damages by any person wrongfully proceeded against for any such arrear, were to apply, *mutatis mutandis,* to proceedings against and by public accountants.

Act XII of 1850. Public Accountants.

§ 126.—The purposes for which Act XI of 1859 was passed may be gathered from the preamble, and are as follow :—

Objects of Act XI of 1859.

I.—To afford security to persons who have liens upon estates, and who pay the money necessary to protect such estates from sale.

II.—To afford sharers in estates, who duly pay their proportion of the revenue, easy means of protecting their shares from sale by reason of the default of their co-sharers.

III.—To afford landholders, particularly absentees,[1] facilities in guarding against the accidental sale of their estates by reason of the neglect or fraud of their agents.

IV.—To provide for the voluntary registration of dependent *talúks* existing at the time of settlement.

V.—To protect the holders of registered under-tenures created since the settlement and not resumable, from loss by the avoidance of their tenures by the sale of the estate; and to give absolute security to such tenures by special registry, when shown to be held at a rent sufficient for the security of the revenue.

The provisions of the former law as to sales were amalgamated with the new provisions made for the effectuation of these objects; and the consolidated measure became Act XI of 1859.[2]

§ 127.—When an estate had been mortgaged or otherwise hypothecated for the re-payment of money, if it were suffered to fall into arrear and so to be sold, through either the carelessness or fraud of the proprietor, the creditor lost his security, as the

[1] This is a direct encouragement to absenteeism. Irish landlords did not receive similar encouragement from the Legislature.

[2] As regards Sylhet, a change was made, the Collector being authorized, with the sanction of the Board, to proceed in the first instance by distress and sale of the *personal property of defaulters,* instead of by sale of their estates (s. 4). The estates in Sylhet are very small, and this was merely a re-enactment for that district of section 4, Regulation I of 1801.

sale cleared away all incumbrances. He might indeed bring a suit to enforce his lien against any balance of purchase-money which remained in the Collector's hands, but as this could not be rendered available until he had got a decree, the defaulting proprietor was generally able to withdraw it before it could be attached in execution of the lien.[1] So long as this risk was possible, it was natural that revenue-paying estates had a depreciated value in the market as security for the re-payment of money, and individual cases of hardship pointed to the advisability of amending the law. The necessary remedy was afforded by allowing the creditor to deposit the arrear of revenue and so save the estate from sale. If he afterwards proved before a competent Court, that this deposit was necessary in order to protect any lien he had on the estate, or share, or part thereof, *the amount so deposited was to be added to the amount of the original lien.*[2]

Liens how protected.

§ 128.—The system of joint-ownership, which is the normal state of every Hindú family, and which exists not infrequently amongst Mahomadans, is occasionally productive of inconvenient results, provident and thrifty sharers being made to suffer the consequences of the improvidence and extravagance of their co-sharers. Thus where one of several co-sharers in an estate failed to pay his quota of the revenue, and so brought the estate into arrear, the other co-sharers had no alternative but to pay his quota out of their own pockets, if they would avoid the loss of their own shares, which would be the result of a sale. To obviate this hardship, a recorded sharer of a joint estate, *held in common tenancy, or whose share consists of a specific portion of the land,* may now apply to the Collector to be allowed to pay his share of the Government revenue separately. If after publication of notice no other recorded sharer make any objection within six weeks, the Collector is to open a separate account with the applicant, and to credit separately to his share all payments made by him (ss. 10,11). If any *recorded*[3] proprietor object that the applicant has no right to the share claimed by him, or that his interest is less than stated, or, where the share consists of a specific portion of land, that the amount of revenue thereupon is incorrectly given, the Collector is to suspend proceedings, and refer the parties to the Civil Court for a judicial determination of the point in dispute (s. 12).

Protection of sharers who pay their revenue.

§ 129.—In the event of a sale where a separate account has been opened for one or more shares, that share or those shares, from which the arrear is due, are alone to be put up in the first instance, notice being given in the sale advertisement of the intention of excluding the share or shares from which no arrear is due, and such share or shares are to continue to constitute one integral estate, the share or shares sold being charged with their separate portion of the revenue (s. 13). If the highest bid, made for the share or

Course to be pursued in the event of a sale, and of the bids not being sufficient to cover the arrear.

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[1] The provisions of Act VIII of 1859 as to attachment before judgment may now be put in operation to prevent this money being taken away; but Act VIII of 1859 was not in force before the passing of Act XI of 1859.

[2] This was an amendment of section 9 of Act XII of 1841 = section 9 of Act I of 1845.

[3] An *unrecorded* proprietor will not be acknowledged or listened to by the Collector at all, and his only resource is to go to the Civil Court at once—See *Hargobind Das and others* v. *Baroda Persad Das*, VI B. L. R. 615.

shares put up in the first instance, be insufficient to meet the arrear, the Collector is to stop the sale and to declare that the whole estate will be put up at a future day, unless the other recorded sharer or sharers, or some of them, shall *within ten days purchase the share in arrear by paying the whole arrear due from such share.* If such purchase be completed, the purchaser is to get the usual certificate and to have the same rights as if he had purchased at a sale.[1] If the purchase be not completed, the entire estate is to be sold after the usual notification (s. 14). Outsiders who purchase shares under these provisions (*i.e.* in ss. 13 and 14) acquire them subject to all incumbrances, and do not acquire any rights which were not possessed by the previous owners (s. 54).

Accidental sales how provided against.

§ 130.—In order to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents, recorded proprietors or co-partners of estates are empowered to deposit with the Collector money or Government securities endorsed and made payable to the order of the Collector, at the same time signing an agreement pledging the same to Government by way of security for the revenue of the entire estate, and authorizing the Collector to apply them to the payment of any revenue that may become due therefrom. In case of arrear, the Collector is to apply to its payment the money and any interest due upon the securities; and, if a balance then remain, he is to sell the securities and apply the proceeds to its discharge. So long as funds are thus in hand to cover any arrear that may accrue, the estate is exempt from sale. Monies and securities so deposited are exempt from attachment otherwise than in execution of a decree of the Civil Court (s. 15). Persons so depositing and pledging monies or securities, or their representatives or assignees, may at any time withdraw them and revoke the pledge (s. 16).

Registration of Talúks and other tenures.

§ 131.—The fourth and fifth objects may be considered together. The law provides for two sets of registers, one for *common registry*, the other for *special registry*. *Common registry* secures the tenures and farms entered therein against any auction-purchaser at a sale for arrears of revenue *except Government*. *Special registry* secures against Government also (s. 39).

Tenures which existed at the time of the permanent settlement how registered.

§ 132.—Tenures of the first and second exceptional classes in section 37, *i.e.* (1) *istimrari* and *mukarrari* tenures held at a fixed rent from the time of the Permanent Settlement, and (2) tenures existing at the time of the Permanent Settlement, though not held at a fixed rent—can be entered in the special register only. Applications for registration are to contain full particulars as to the nature, extent, creation, ownership, &c. of the tenure. A notice is then served on the recorded proprietor of the estate in which the tenure is situate, and other notifications are published, requiring the proprietor or any party interested, who may have objections, to file them within *thirty days*. If no objection is made, the Collector is to make such inquiries as may be necessary to satisfy him as to the validity of the tenure. If satisfied, he is to report the case to the Commissioner, who, if also satisfied, may direct the tenure to be entered in the special register. If any person appear and object, the Collector is to examine him, and if it appear that he has

[1] He is excluded from the operation of section 53—See note, *ante*.

probable ground of objection, the parties are to be referred to the Civil Court, otherwise he is to proceed as if no objection was made. If the Court decide in favour of the applicant, the Collector, on presentation of a copy of the final decree, is to proceed as if there had been no objection. Registration of these tenures is wholly voluntary, and the law distinctly provides that registration is not *necessary* for their protection (s. 44).

Tenures and leases created since the permanent settlement how registered.

§ 133.—The registration of *talúks* or similar tenures created *since the time of the Permanent Settlement*, and held immediately of the proprietors of estates, of farms for terms of years so held,[1] and of leases of lands whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, may be either *common* or *special*. Persons desiring to register must apply to the Collector in the manner above stated, and similar notices to proprietors and others will be issued. If the application be for *common registry*, and no objection be made within the time allowed, the Collector is to register the tenure, farm, or lease. If an objection be made, and, on examination of the objector, appear reasonable, the Collector is to suspend proceedings and refer the parties to the Civil Court, and govern himself by the result. If the application be for special registry, the procedure is the same, with this important addition that, as special registry protects against Government, the Collector must make an inquiry and satisfy himself that the Government revenue of the parent estate is sufficiently secured, so far as it may be affected by the tenure, farm, or lease in question. If so satisfied, he is to report the case to the Commissioner, who, if also satisfied, may direct entry in the special register (ss. 38, 40, 41, 42, 43).

Time within which registry to be applied for.

§ 134.—Application for registry of tenures and farms existing at the time of the passing of the Act was to be made within three years from that date, *viz.* 4th March 1859. This time was subsequently extended by Act III (B.C.) of 1862 to three years after the passing of this latter Act, *i.e.* up to the 21st April 1865. Application for registry of tenures subsequently created was directed to be made *within three months* from the date of the deed constituting the tenure, and this is still the law. Act III (B.C.) of 1862 allowed three months from the date of its passing for the registry of tenures in existence when it was passed, but created after the passing of Act XI of 1859.[2]

Expenses of survey in order to registry.

§ 135.—The expenses of any survey or local inquiry, necessary to enable the Collector to decide upon the propriety or otherwise of granting registration, are to be borne by the person applying therefor, who may be required from time to time to make advances on this account (s. 46). Regulations VII of 1822 and IX of 1825 are in force in every estate in which such survey or local inquiry is being made under the Act. No Civil Court is competent to order the entry of any tenure or farm in the special register; but the refusal of the Revenue Authorities to register does not affect the title of the holder,

Jurisdiction of the Civil Courts.

[1] These *talúks* and farms form the third exceptional class in section 37. They are protected, once the inquiry has begun, pending its duration, and eventually by registration if the result of such inquiry be favourable (s. 51).

[2] It may be observed that section 45 of Act XI of 1859 prescribed no time for the registration of *leases* (see section 43), and the oversight was not remedied by Act III (B.C.) of 1862.

whatever it may be.[1] Any person thinking himself wronged by the registry of a tenure or farm, may sue to cancel the same (ss. 47, 48).

§ 136.—All orders passed under these provisions are open to appeal in the usual course of Revenue procedure. The order of a Commissioner for the special registry of a tenure is open to revision within one year by the Board of Revenue, or by the Local Government, on the ground of the revenue not having been sufficiently secured, or of the invalidity of the tenure (s. 49). The Government may, moreover, institute a suit within the period allowed for suits for the recovery of the public revenue,[2] to have the registration pronounced to have been obtained by fraud, to the injury of the Government revenue. A tenure or farm in the hands of a *bonâ-fide* purchaser for value is not, however, to be avoided by reason of such fraud, but it is liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector (s. 50).[3]

Appeal and revision by the Revenue Authorities.

§ 137.—The protection extended by the above provisions to under-tenures, farms, and leases had been for many years sought at the hands of the Legislature, more especially by indigo and sugar-planters in the district of Jessore and other places, who required long leases in order to the success of their operations; and who could not safely lay out capital upon the erection of manufactories and other expensive works, so long as the leases of lands taken for such purposes were exposed to the risk of cancelment by a sale for arrears of revenue. All the best Revenue Officers of the time were in favour of protection, including Mr. (afterwards Sir) F. Halliday and Mr. (afterwards Sir) J. P. Grant, both of whom subsequently held the office of Lieutenant-Governor of Bengal. Mr. Halliday—remarking that if any great improvement is to happen to this country, it must come by

Protection of Tenures and Leases sought by certain classes but when obtained not generally resorted to.

[1] It may then be asked—What is the advantage of *special registry?* The protection of the first two classes in section 37 does not depend upon registration: but registration has this advantage, that a registered tenure is protected at once; whereas, in the event of a sale, an unregistered tenure may be challenged by the auction-purchaser, and the tenant may have to prove his title at considerable expense and some risk. In the case of the third class, the law makes protection depend on registration. The fourth class seems to be in the same category as the first two.

[2] See Article 150, Schedule II of Act IX of 1871; section 17, Act XIV of 1859; and clause 2, section 2, Regulation II of 1805. The time is sixty years.

[3] There were two or three other improvements made in the law by Act XI of 1859, which, though not within the exact scope of the *five* objects mentioned above, may well be noticed. Provision was made for delivering possession of an estate or share sold, by removing any person who might refuse to vacate the same, by proclamation &c. (s. 29). A party who had obtained a decree of the Civil Court for annulling a sale is allowed only six months to execute it: and before obtaining an order for restoration to possession, he must repay with interest any amount of surplus purchase-money that may have been paid away by order of a Civil Court (s. 34). When an estate is put up for sale and there is no bid, the Collector may purchase the estate on account of Government for one rupee; or, if the highest bid be insufficient to cover the arrears up to date of sale, the Collector may purchase the estate for Government at the amount of the highest bid. The Government acquires the property in both cases *subject to the provisions of the Act* (s. 58). In every estate purchased for Government, Regulations VII of 1822 and IX of 1825 are declared to be in force (s. 60).

means of the introduction, as under-tenants of zemindárs, of men of skill, capital and enterprise—advocated that no under-tenures of any description should be affected by a sale, and that a purchaser should merely step into the shoes of the former owner. To provide against loss of Government revenue, he would have enacted that, if the bidding at a sale did not come up to the balance due, the contract between Government and the zemindár was to be at an end, and the estate was to lapse to Government, free from all incumbrances other than those existing at the time of the Decennial Settlement. Lord Dalhousie took to some extent the same view. The provisions of 1859 were a compromise between two sets of opinions. The experience of fifteen years has, however, shown that the public concerned have not availed themselves of the facilities for protection to the extent to which it was expected they would. Many causes have been assigned for the comparative failure of the experiment. The most probable of these causes are the elaborate inquiries that have been ordered without due distinction of cases, the slow procedure of the Revenue Authorities, and the great delay and expense consequent upon all these. It may also be that the diminished number of sales has occasioned less need of the remedy, by rendering less frequent the occurrence of the evil,[1] against which it was directed.

Law for recovery of arrears otherwise than by sale of estates in need of amendment.

§ 138.—It will have been observed that the legislation during the sixty years from 1799 to 1859 was concerned principally with the sale of estates and the recovery of arrears from proprietors by such sales. Little or nothing was done by way of amending or improving the law for the recovery of arrears by other process, or for the recovery of arrears from farmers, or for the recovery of demands recoverable as arrears of land revenue. Owing to numerous repeals, amendments, and modifications, the law on these points was not as clear as it was desirable that it should be for those who were charged with the duty of administering it. The Bengal local Legislature accordingly turned its attention to the subject, and Act VII (B.C.) of 1868 was the result.

[1] Up to the end of 1872-73, the total number of entries in the *Common Registers* was 2,936, covering an area of 4,509,364 acres, with a rental of Rs. 18,01,588. Of these, 2,894 represent modern tenures, with an area of 4,509,320 acres, and a rental of Rs. 18,01,234; and 42 represent buildings, &c. containing 44 acres. and yielding Rs. 354 rent. The *Special Registers* up to the same time contain 272 entries, covering an area of 820,529 acres, and yielding a rental of Rs. 3,91,454. Of these, 21 are *istimrari tenures*, with an area of 415,050 acres, and a rent of Rs. 1,14,940; 248 are modern tenures, covering 405,467 acres, and having a rental of Rs. 2,76,497; and three are occupied by buildings, &c, containing 12 acres, and yielding a rent of Rs. 17—*Report on the Land Revenue Administration of the Lower Provinces*, 1872-73. The high scale of fees on registration levied under Act III (B.C.) of 1862 has been assigned by some as one of the causes of the registration provisions being so sparingly resorted to. Probably no single cause will sufficiently account for the result; and of the several causes to which it is to be attributed, the most important is the decrease of the mischief against which these provisions are directed. There is a general *consensus* of opinion amongst the Revenue Authorities in Lower Bengal, that sales for arrears of revenue do not now practically cause much hardship to under-tenants—See paragraph 115 of the *Memorandum on the Revenue Administration of the Lower Provinces*, 1873. In fact, people have got accustomed to the idea of protection, and any attempt at a violation of the principle is sure to be resisted and to lead to litigation, which costs more than the result is worth.

§ 139.—One of the most important portions of this Act is the Interpretation Clause, which for the first time gave precise and accurate definitions of the words "Proprietor," "Revenue," "Estate," "Tenure," and "Demand." "Proprietor" was defined to include *any tenant* by whom *any estate or tenure* is held *directly under Government.* "Revenue" includes every sum annually payable to Government by a proprietor in respect of his estate or tenure, and every sum payable to Government in respect of *tuccavi* or of any money advanced by Government to proprietors for making or repairing embankments, reservoirs or water-courses, or other improvements on the land held by them.[1] "Estate" means *any land* or *share in land,* subject to the payment to Government of an annual sum, in respect of which the name of a proprietor is entered on the general register of revenue-paying estates, or in respect of which a *separate account* has been opened under section 10 or 11 of Act XI of 1859.[2] "Tenure" includes *all interest* in land, whether *rent-paying* or *lakhiraj,* other than *estates,* and all fisheries, which by their title-deeds, or by the custom of the country, are *transferable,* whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been specially reserved by stipulation in any instrument.[3]

Definitions. Proprietor. Revenue. Estate. Tenure.

§ 140.—"Demand" means any of the following public demands, arrears of which are by law recoverable as arrears of revenue, *viz.* (1) sums due from public accountants and their sureties on account of loss or defalcation in the accounts; (2) sums due from sureties for farmers; (3) arrears of revenue payable in respect of any tenure which the Collector does not think fit to sell under section 11 of the Act; (4) the authorized

Demand.

[1] This referred to section 40 of Regulation XIV of 1793, which was afterwards repealed by section 2, Act XXVI of 1871, which Act must now be consulted as to what are "improvements" (s. 3), and as to the mode of recovering advances (s. 15). Such advances are recoverable from the person to whom they were made or his surety, as if they were arrears of land revenue due from such person or such surety. If they cannot be so recovered, they are recoverable as arrears of revenue due on the land specified in the Certificate made under section 14, *i.e.* the land to be improved or other land pledged as security for repayment of the advances. In introducing the Bill which afterwards became Act VII (B.C.) of 1868, the Advocate-General said that the definition of the word "revenue" had reference to the peculiar form of Act XI of 1859, which, not containing any definition of terms, did in an indirect and inferential way deal with certain public demands, such as *tuccavi* and money advanced for the making and repairing of embankments, reservoirs, and water-courses, and gave the same absolute power of sale, and title under that sale in respect of such demands, as in the case of estates sold for arrears of revenue proper. That was why the term "revenue" was extended to those demands, instead of including them with other demands which formed the principal subject of the later sections.—*Proceedings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations—Supplement to the Calcutta Gazette of 22nd April* 1868.

[2] Under the former law there was a doubt whether or not *shares of estates* could be sold for arrears of revenue due on them. To make it quite clear that that power was intended to be given by the Act, the term "estate" was so defined as to place persons who desired that they should be separately assessed in the position of proprietors.—*Idem.*

[3] Such right is always reserved in the case of *patni* tenures. It will be observed that *transferability* is the essence of what is made to constitute a "tenure," and that it is immaterial whether the land be revenue-paying or *lakhiraj.*

expenses of *batwaras* or partitions, or fines imposed under section 20 or 21 of the Batwara Regulation, XIX of 1814; (5) expenses of constructing, altering, or extending embankments (see clause 2, section 11 of Act XXXII of 1855, and Act VII (B.C.) of 1866); (6) the difference between a bid at a sale not followed up by payment of the purchase-money, and the sum eventually realized by the sale (section 23, Act XI of 1859); (7) sums payable for water rate (Act VIII (B.C.) of 1867); (8) fines on proprietors and farmers for non-attendance &c. (Act XX of 1848); (9) any other demand, which by any law for the time being in force is recoverable as arrears of revenue.

Power to serve Notices of arrears of demands.

§ 141.—We have seen that the old Regulation law, which required the issue of *talab-chittis, dastaks*, or other process of demand on persons from whom arrears of revenue or other demands similarly recoverable were due, was repealed by clause 2, section 2, Regulation XI of 1822. The repeal of these provisions did not *forbid* the making of a preliminary demand before proceeding to realize by compulsory process. The practice of so doing had, however, wholly ceased. It was now thought desirable to give Collectors a discretionary power of issuing preliminary notices, and it was accordingly enacted that the Lieutenant-Governor might, by an order published in the Gazette, empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices, as shall be in such order specified, to be served upon proprietors or persons liable to any demands, before proceeding to compulsory process under either of the Acts. Provision was also made for levying the cost of serving these notices from the persons on whom they were served (s. 6), and for the mode of service (s. 5).

Sale of Lakhiráj land legalized.

§ 142.—The power to sell *lakhiráj* and other kinds of interest in land had been somewhat doubtful. Sales of *lakhiráj* land, which had been made under the procedure of Act XI of 1859, were validated (s. 9), and it was enacted that whenever any revenue payable to Government in respect of any *tenure not being an estate* (see the definition of "tenure" above) shall be in arrear after the latest date of payment, the Collector may proceed to affix the notices mentioned in section 5 of Act XI of 1859, and to sell such tenure in the manner provided by this Act for the sale of estates for arrears of revenue *due on account of the same* (s. 11). This section was repealed, and a new section substituted therefor by Act II (B.C.) of 1871. In the new section the words about affixing the notices mentioned in section 5[1] of Act XI of 1859, and the words "due on account of the same" above italicised, are omitted; and a proviso is added, which enacts that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year, or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification specifying the nature and amount of the arrear, and the latest date on which payment thereof shall be received, shall have been published in the usual way

Power given to sell Tenures.

[1] The figure 5 appears to have been a verbal mistake for 6—See *Proceedings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations—Supplement to Calcutta Gazette of 30th November*, 1870, *page* 777.

for not less than *fifteen clear days* preceding the date fixed for payment according to section 3 of Act XI of 1859.[1]

§ 143.—Purchasers of tenures so sold acquire them free from all incumbrances imposed upon them after their creation, or after the time of settlement, whichever may have last occurred, and are entitled to avoid and annul all under-tenures,[2] and forthwith to eject all under-tenants with the following exceptions :— Rights of Purchasers of Tenures.

I.—Same as first exception in section 37 of Act XI of 1859 (*ante*, §§ 118 & 132).

II.—Same as second exception in section 37 of Act XI of 1859 (*ante*, §§ 118 & 132).

III.—Tenures created or recognized by the settlement proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement.

IV.—Tenures of lands whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship, or burning or burying grounds have been made (s. 12); but the rent of this last-mentioned class may be enhanced in the manner prescribed by any law for the time being in force, if it can be shown that any such tenure is held at what was originally an unfair rent, unless it has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land (s. 13). Purchasers cannot, however, eject raiyats having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, nor enhance the rent of such raiyats otherwise than in the manner prescribed by such laws, or otherwise than as the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do (s. 14).[3]

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[1] In the *Memorandum on the Revenue Administration of the Lower Provinces of Bengal, published in* 1873, it is said (paragraphs 33 and 234) that in estates held *khas*, or under the direct management of Government, the Collector may proceed under the above provisions to recover *rents* due on account of transferable tenures: and that in Wards' estates and attached estates, he has the same powers in respect of middlemen who hold from himself direct and not through the manager. This follows from the definition of the word "Proprietor"—and see the Advocate-General's speech on introducing the Bill—*Proceedings of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations—Supplement to the Calcutta Gazette of* 22*nd April*, 1868.

[2] The Act does not contain any definition of "under-tenure." Is the latter half of the compound word to be construed according to the definition? and is *transferability* of the essence of an "under-tenure" also?

[3] The above is taken *verbatim* from section 37 of Act XI of 1859. If, instead of being under the direct management of Government, the estate were in the hands of a private proprietor, and if the tenure therein were sold under the provisions of Act VIII (B.C.) of 1865, the purchaser would acquire it (s. 16) "free of all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created, or by subsequent written authority:

§ 144.—We have seen that section 44 of Regulation XIV of 1793 enacted that, if the sale of the revenue-paying lands of a defaulting proprietor, or farmer, or surety, did not produce sufficient for the liquidation of the public demand, any other real and personal property belonging to him might be attached and sold to make good the deficiency, under the same rules as the revenue-paying lands were directed to be sold, so far as those rules were applicable. This section was repealed by Act VII (B.C.) of 1868, section 15 of which enacts that whenever an *estate* or *tenure* shall have been sold for the recovery of arrears of revenue due on account of the same in pursuance of the powers and provisions of Act XI of 1859, or of *this* Act, and the produce of such sale, after defraying thereout the expenses of such sale, shall have been insufficient for the liquidation of all arrears of the revenue of such estate or tenure, the Collector of the District shall make, under his hand, a Certificate (in the form annexed to the Act) of the amount of arrears so remain-

Arrears remaining after sale of estate or tenure how to be realized.

Provided that nothing herein contained shall be held to entitle the purchaser to eject *khúdkásht* raiyats, or resident and hereditary cultivators, nor to cancel *bonâ fide* engagements made with such class of raiyats or cultivators aforesaid, unless it be proved in a regular suit brought by the purchaser for the adjustment of his rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor. *Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.*" The language of this section (especially *khúdkásht*, &c.) is that of the old Sale Laws, Acts XII of 1841 and I of 1845. The following cases are important as explanatory of its meaning: *Shahabúdin* v. *Fattch Ali and another*, B.L.R. Sup. Vol. F.B. 646 (Sale, under section 105 Act X of 1859 for arrears of rent, of an under-tenure other than that the right of selling which for such arrears has been specially reserved in its title deed, does not void incumbrances), approved by the Privy Council in *A. J. Forbes* v. *Latchmipat Singh and others*, X B.L.R. 139 and XIV Moo. Ind. Ap. 330: *Mir Jasimuddin* v. *Sheikh Mansur Ali and others*, VI B.L.R. Ap. 149 (Sale under Act VIII of 1835—but to the same effect): *Kishoreban Mahant* v. *Dúrga Churn and others*, III R.C. & C.R. Civ. Rul. 203 (Procedure under old and new law): *Sham Chand Mitter* v. *Jagat Chandra Sirkar and others*, XXII W.R. 541 (Right under section 16, Act VIII (B.C.) of 1869, belongs to purchaser of *entire* under-tenure only): *Nil Madhab Karmakar* v. *Shibu Pal*, V B.L.R. Ap. 18 (A right of occupancy acquired under former holder of the tenure is not an incumbrance created by him): *Hara Sundari Dasi* v. *Kisto Mani Chaudhrain and others*, V B.L.R. Ap. 37 (Section 16, Act VIII (B.C.) of 1865 does not apply to the purchaser of the interest of the holder of a fractional share of an under-tenure): *Bholanath Ghosal and others* v. *Kedarnath Banerji*, XIX W.R. 106 (The section gives no right to avoid rights of occupancy which existed before the creation of the tenure): *Umasundari Dasi* v. *Birbul Mandal and others*, III B.L.R. 183. It would be a nice question to determine exactly what is the difference between the rights of a purchaser (1) of a tenure sold under Act VIII (B.C.) of 1865, the estate being in private hands; and (2) of a tenure sold under Act VII (B.C.) of 1868, the estate being under the direct management of Government. It may be observed that the latter Act contains no provision for the case of the former owner purchasing, such as that above italicised, and as that contained in section 53 of Act XI of 1859. The word "tenure" in Act VII (B.C.) of 1868 is equivalent to "under-tenure" as occasionally used in Act VIII (B.C.) of 1865, in which Act "tenure" and "under-tenure" are used indiscriminately for the same thing. See for example in the very section above quoted. The preamble to the same Act speaks of "patní talúks and *other saleable under-tenures*." Now a *patní* is not an *under*-tenure but a *tenure*, and is so spoken of in Regulation VIII of 1819. *Dar-patnis* and *se-patnis* are *under-tenures*, being *under* the *patnidar* and *dar-patnidar* respectively.

ing unliquidated. Such Certificate is to have the force and effect of a decree of the Civil Court, and the Government is to be deemed to be the plaintiff, and the person named therein as debtor to be the defendant (s. 17).

Recovery of arrears of revenue from Farmers.

§ 145.—Whenever any estate is held by any *farmer, and arrears of revenue* are unpaid from such farmer, in respect of such estate, for one month after the latest day of payment fixed in the manner prescribed in section 3 of Act XI of 1859, the Collector is to make, under his hand, a Certificate of the amount of arrear so remaining unpaid, in the form annexed to the Act, and is to cause the same to be filed in his office (s. 16). Such certificate is to have the force and effect of a decree of the Civil Court, Government being deemed to be the plaintiff and the person named as debtor in the Certificate to be the defendant (s. 17).[1]

Recovery of demands payable to Collectors,

or to other officers.

§ 146.—Whenever any arrears of any *demand* (see the definition) shall be unpaid by any person liable to pay such demand to a Collector, for one month after service of notice in writing and under the Collector's hand, requiring payment, the Collector is to make a Certificate in the form already referred to as attached to the Act, and to file it in his office (s. 18). When the demand is payable to any officer other than a Collector, such officer[2] is to give to the Collector a notice in the form attached to the Act; and, on receipt of this notice, the Collector is to proceed to make a Certificate and file it in his office (s. 19). The Certificate, made under these two sections, *i.e.* a Certificate for arrears of *demands* as opposed to a Certificate for arrears of *revenue*, has, *as regards the remedies for enforcing the same, and subject to the subsequent provisions of the Act and so far only*, the force and effect of a decree of a Civil Court, the Government being deemed to be plaintiff, and the person named as debtor in the Certificate to be defendant (s. 20). The effect of the words above in italics is not very clear at first sight: but what is meant is that a Certificate for *arrears of demands* is to have the effect of a *decree* so far as regards its *execution* only, while it may be contested *on its merits* in the Civil Court.[3] A Certificate for *arrears of revenue* on the other hand is as conclusive in all respects as a decree of Court.

Effect of Certificate for arrears of Demands.

Notice to defendant,

§ 147.—Whenever the Collector makes and files in his office a Certificate of arrears of either kind, he is to issue a notice to the defendant; and after the service of this

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[1] Recovery of arrears from the *sureties* of farmers is provided for by the definition of "demand."

[2] Under section 4 of Act XII of 1850, the Head of the Office in which a public accountant is employed may himself proceed against such accountant or his sureties for any loss or defalcation in the accounts. This section has not been repealed or amended by Act VII (B.C.) of 1868. It certainly was the intention of the framers of this latter Act that Heads of Offices should in future proceed through the Collector only; but it may be a question whether they have not a concurrent jurisdiction, as the two Acts now stand.

[3] When the Bill was before the Council, it was objected that the difference between the effect of the two Certificates did not sufficiently appear from the language of the two sections (17 and 20), and the words "and so far only" were added; but I think even this has not made the meaning as clear as it might have been—*See Proceedings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations—Supplement to the Calcutta Gazette of* 15*th July* 1868, *page* 524.

after which Certificate binds immovable property.

notice the Certificate *binds the immovable* property of the defendant within the jurisdiction of the Collector, as if a prohibitory order had issued and an attachment had been executed against such property under Act VIII of 1859. It will also bind the defendant's immovable property situate within the jurisdiction of any other Collector, in whose office a copy of the Certificate is filed, from the date of filing of such copy (s. 21). Any person aggrieved by the Certificate may petition the Collector within a month. The Collector is to fix a day for hearing the petition; and, for the purpose of hearing, has all the powers conferred by Act VIII of 1859 for hearing and determining claims to attached property and for enforcing the costs of such claims (s. 22). Orders made by a Collector are appealable within one month to the Commissioner (s. 23).

Enforcement of Certificates.

§ 148.—All Certificates may be enforced in all or any of the ways provided by Act VIII of 1859 for the enforcement of decrees for money; and the practice and procedure under the law for the time being in force in respect of *sales* in execution of decrees, arrests in execution of decrees for money, execution of decrees by imprisonment, claims to attached property, execution of decrees out of the jurisdiction of the Courts by which they were passed, are applicable to every execution issued for levying the monies expressed in such Certificates, save that all the duties, powers, and authorities imposed or conferred upon the Court are to be exercised by the Collector in whose office any such Certificate, or any copy thereof, transmitted under the provisions of section 286 of Act VIII of 1859, shall have been filed (s. 24). Registers of Certificates are kept in Collectors' offices, and are open to the inspection of any person on payment of a fee of eight annas (ss. 25 and 26). As a Certificate binds the immovable property of a defendant after the service of notice upon him, a search in these registers is necessary in order to ascertain whether the property of a person about to sell is free from lien, and so whether he can give a good title. When the amount due under a Certificate is paid, the Collector is to enter up satisfaction under his own hand and signature, and is to transmit a memorandum thereof to any other Collector in whose office a copy of the Certificate has been filed; and, in the case of a *demand* payable to any other officer, to such officer. Sums levied or received by a Collector in whose office a copy has been filed are to be transmitted to the Collector in whose office the original Certificate was filed (ss. 27 and 28).

Registers of Certificates.

Satisfaction of Certificates.

§ 149.—In order to improve the titles of purchasers at these Government sales, it was enacted that every Certificate of Title given to a purchaser under section 28 of Act XI of 1859, or section 11 of Act VII (B.C.) of 1868, shall be conclusive evidence in favor of such purchaser, and of every person claiming under him, that *all notices*, required by either Act to be served or posted, have been duly served or posted; and the title of any person who shall have obtained any such Certificate shall not be impeached or affected by reason of any omission, informality, or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had, at which such person may have purchased (s. 8). At the same time, in order to provide for full publicity, provision was made for posting an additional notice, namely at the sub-divisional kachahrí, within the jurisdiction of which the estate or some portion of it is situate (s. 7).

Certificate of Title conclusive as to what.

§ 150.—It will appear from the preceding account that the law now operative for the realization of arrears of land revenue and of demands recoverable as arrears of land revenue in the Lower Provinces of Bengal is contained in the two Acts XI of 1859 and VII (B.C.) of 1868.[1] The general opinion of the Revenue Authorities is that this law is in a sufficiently satisfactory state. In paragraph 116 of the *Memorandum on the Revenue Administration of the Lower Provinces of Bengal*, the Board of Revenue say :—"There can be no manner of doubt that, on the whole, the working of the present Sale Law has been most beneficial and satisfactory, and that, except where experience may have proved the necessity for some slight amendment in its minor details, it would be most inexpedient to alter a law with which the people have become thoroughly acquainted, and under which the Government revenue is realized without oppression and with but very rare instances of individual hardship, and these, too, such as in the majority of cases the local authorities have the power to remedy." In reply to the question—"Do sales usually occur in consequence of inability on the part of proprietors to pay the Government demand, or are they purposely brought about to give purchasers a good title?"—Commissioners of Divisions were generally of opinion that sales now rarely take place owing to the inability of proprietors to pay, the only exceptions being cases in which the estate, or a large portion of it, may have diluviated. Owing to the security of the title obtained by a purchaser at a Government sale, higher prices are given for land so purchased than for land bought by private contract,[2] and hence occasionally persons, who from extravagance or other cause are forced, or who have resolved to part with an estate, purposely let it fall into arrear that it may be sold to the best advantage at a Government sale. The arrear of revenue being deducted, the proprietor gets the balance, without any of the trouble or expense inseparably connected with a private conveyance, which has to be registered.[3]

Present satisfactory state of the law.

Sales not now due to inability to pay.

§ 151.—It is also the general opinion that sales do not now practically cause much hardship to under-tenants who are not, as a rule, interfered with under the law, recourse being had in most cases to the provisions of the Rent Law to obtain an enhancement of rent, where tenures may have been held, prior to sale, at inadequate rents.[4] The Board of Revenue also consider that few sales are now attributable to fraud and

Sales now seldom injurious to under-tenants.

Fraud of agents no longer a cause of sales.

[1] As amended by Act II (B.C.) of 1871.

[2] Apart from the ordinary flaws in title, it is no uncommon thing in India for the same land to be deliberately and fraudulently mortgaged two or three times over, the previous incumbrance being always concealed from persons who are subsequently induced to lend money on the security of the same property. The *benami* system is another source of fraud. Even when there has been no *mala fides* before the sale, the purchaser is not altogether safe, for the seller is not unlikely to endeavour to get back the land through some relation or third party by means of a pretended previous conveyance forged and antedated for the purpose.

[3] It may be observed that the only persons who can safely resort to this way of getting the best price for their property, are persons not indebted under decrees. In the case of persons so indebted, the surplus proceeds would be sure to be attached in the Collector's hands in execution of the decrees

[4] My own expérience, drawn from the Civil Courts, leads to the same conclusion.

chicanery practised by agents at the expense of their principals. In order to show how far their conclusions on these points are borne out by statistics, they refer to the results of the ten years from 1862 to 1872. The average number of estates on the revenue roll during that period was 219,408, and the average annual number of sales of whole estates during the same period was 686. The average annual proportion of sales to estates was therefore ·312 per cent. only.

Argument from experience in Orissa.

§ 152.—Another argument in favor of the existing law is drawn from Orissa, where, up to 1853, the *dastak* system was in force, and was found extremely unsuccessful in its operation. The introduction of the Sale Law brought results wholly satisfactory to the people, and after the first year or two, when they became thoroughly conversant with the law and its requirements, sales became very infrequent, and it is believed that few have since occurred, except where proprietors have intentionally allowed their estates to fall into arrear for the express purpose of bringing them to sale. "There appears, then," it is said in conclusion, "to be no reason for any material alteration in the existing law. It works well, both for the interests of Government and of the proprietors. No serious complaints have been made against it. It is well known to, and accepted by, the people; and no other system of enforcement of the Government demands would probably be found so beneficial or so acceptable to all parties concerned."

Conclusion of the Board.

§ 153.—The Province of Benares was, as we have already seen, finally vested in the Company in 1775, ten years after the acquisition of Bengal, Bahár, and Orissa. A *sanad* and *patta* were granted to Rájá Cheit Singh on the 15th April 1776, by which his former rights were confirmed to him on condition of his paying an annual tribute of 22,66,180 sicca rupees at Benares, or 22,21,745, if paid at Calcutta. When Cheit Singh, unable or unwilling to pay the fine of fifty lakhs imposed on him by Mr. Hastings, was expelled in 1781, a patta was granted to his successor Rájá Mehipnarain, by which the zemindárí was confirmed to him at an annual *jama* of 4,000,000 Benares sicca rupees exclusive of jagírs and pensions. Up to 1791, the Resident stationed with the Rájá had not interfered in the internal management of the zemindárí: but, as Mehipnarain's age disqualified him for personal superintendence, the administration of the revenue came now to a certain extent under the control of the Resident. In 1787, in order to correct abuses, this officer was entrusted with fuller control over the collections and settlement. Finally on the 27th October 1794, an agreement was entered into between the Rájá Mehipnarain and the Resident Mr. Duncan on the part of the Company, by which the system established in the Provinces of Bengal, Bahár, and Orissa in 1793 was to be introduced into the Province of Benares; and this was effected by Regulation I of 1795, which contains the conditions of the Permanent Settlement for this Province.[1]

Settlement of Benares.

First Administration of the Ceded Provinces.

§ 154.—The Ceded and Conquered Provinces were at first termed *The Upper Provinces* by way of distinction from *The Lower Provinces* of Bengal, Bahár, and Orissa, and the

[1] In section 2 of this Regulation and in Regulation II of 1795 will be found an account of what was done in the way of settlement, &c. in the Province of Benares before the assessment was fixed in perpetuity.

intermediate Province of Benares. An account has already been given of the territories which constituted these provinces and of the time and manner of their acquisition. The territory ceded by the Nawáb Vizier in November 1801 was placed under a Lieutenant-Governor (the Hon'ble Henry Wellesley) and a Board of Commissioners, who were entrusted with the settlement of the revenue and the formation of a temporary scheme of internal administration, until sufficient information could be acquired to form the basis of a more permanent system. The Company's servants stationed in the districts exercised the united powers of Magistrates, Collectors and Judges; and, in addition to these duties, endeavoured to collect detailed information concerning the country placed under their care. The Commissioners discharged the functions of Judges of Appeal and circuit and also assisted the Lieutenant-Governor and the Governor-General in Council in preparing Regulations adapted to the condition and requirements of the new provinces. This plan of administration continued until the beginning of 1803, when, a settlement of the land revenue having been concluded for a term of three years, the Lieutenant-Governor resigned his office and the provisional Board was dissolved.

§ 155.—The system introduced into the Lower Provinces by Lord Cornwallis in 1793 and which is generally identified with his name, had been made the subject of the highest commendation, while experience had not yet disclosed these defects which subsequent time has brought to light. It was therefore decided to introduce this system into the Ceded Provinces of Oudh with such modifications as the information collected in the short space of a year and a few months showed to be advisable. Accordingly on the 24th March 1803, a set of Regulations was passed for the Provinces Ceded by the Nawáb Vizier, which consisted of the Regulations already passed for Bengal, Bahár, and Orissa with slight alterations and additions,[1] and which incorporated and confirmed[2] a proclamation issued by the Lieutenant-Governor and Board of Commissioners on the 14th July 1802. This proclamation had notified to the Zemindárs, Tálukdárs and others concerned, that, at the commencement of the Fasli year 1210, a settlement would be concluded for a period of three years; that, at the expiry of this period, a second settlement would be made for a like term at a jama formed by adding to the jama of the first settlement two-thirds of the difference between such jama and *the actual yearly produce of the land* at the time of the expiry of the first settlement;[3] that, at the end of these two triennial periods, a further settlement would be formed for four years at a jama formed by adding to the jama of the second period three-fourths of the net increase of revenue during any one year of that period; that, at the close of the ten years comprised in these three periods, a Permanent Settlement would be concluded for such lands, as should be *in a sufficiently improved state of cultivation to warrant the measure*, on such terms as Government might

Bengal system introduced into the Ceded Provinces.

Promise of a Permanent Settlement for these Provinces.

[1] A glance over the Titles of the Regulations of 1803 in the Chronological Table will show the general similitude between the two sets of Regulations.

[2] See section 29 of Regulation XXV of 1803 and section 53 of Regulation XXVII of 1803.

[3] In consequence of a severe drought which prevailed in the Fasli year 1811, this increase of assessment was not exacted—See sections 1 and 2 of Regulation V of 1805.

deem fair and equitable. The promise thus held out of a Permanent Settlement to be concluded at the expiry of an experimental period of equal length with that previously adapted for Bengal, Bahár, and Orissa was made without any reservation as to the subsequent approval of the Court of Directors.

§ 156.—The Regulations made for the Ceded Provinces were in 1804-1805[1] extended to the Conquered Provinces and to the territory in Bundlekund ceded by the Peishwa, and a plan of settlement precisely similar was notified in a proclamation contained in Regulation IX of 1805 passed on the 11th July of that year. The oversight in promising a Permanent Settlement without reference to the Court of Directors was corrected by section 5, Regulation X of 1807, by which proprietors were informed that the jama assessed on their estates in the last year of the settlement immediately ensuing the then existing settlement would remain fixed for ever, if they were willing to engage for the payment of the public revenue on those terms, and if the arrangement received the sanction of the Honorable the Court of Directors. This sanction was however withheld, as, before the time came from which the settlement was to become permanent, the very strongest reasons had arisen for doubting the expediency of settling the revenue in perpetuity in the then condition of the country and upon the information then available.

Same system and same promise extended to the Conquered Provinces.

§ 157.—When the second of the triennial periods was drawing to a close, and it became necessary to arrange for the quartennial settlement of the provinces ceded by the Nawáb Vizier, it was naturally considered to be a matter of the first importance that this settlement, which was intended to be perpetual, should be made upon the most accurate and reliable materials. The Board of Revenue at Calcutta, who had charge of the Revenue Administration of the Upper Provinces from the dissolution of Mr. Wellesley's Government, was too remote to exercise an efficient control and superintendence. It was therefore resolved to create a Special Commission for the settlement of these provinces; and two Commissioners, one a Member of the Board of Revenue and the other a Civil Servant of experience,[2] were accordingly appointed and vested with all the duties, powers and authority previously exercised by the Board of Revenue.[3] The primary object of this Board of Commissioners was the superintendence of the quartennial settlement of the provinces ceded by the Nawáb Vizier, and of the second triennial settlement of the Conquered Provinces and Bundlekund; and it was at first intended that the Commission should cease to exist as soon as this work was completed. In less than two years after, *The Board of Commissioners in the Upper Provinces* was however declared to be permanent by Regulation I of 1809, and was further vested with the administration of the land revenue in the Province of Benares.

Board of Commissioners created for the Upper Provinces.

§ 158.—The Commissioners, after being engaged about a year in collecting information, submitted a report dated the 13th April 1808, in which, having dwelt upon the

[1] See the Regulations of these years, more especially Regulation VIII of 1805.

[2] The Commissioners appointed were Messrs. Cox and Tucker.

[3] Sections 1 to 4 of Regulation X of 1807. A Secretary, an accountant, and a competent staff of native officers were attached to the Board.

large quantity of arable land (one-fourth) still uncultivated, the insufficient knowledge of the then state of the country or of its means of future improvement, the sparseness of the population, the want of capital necessary in order to make improvements, the absence of commerce, the illegal alienations of revenue-paying lands, the numerous disputes as to proprietary rights, the small acquaintance of the people with the English system, and other facts, they submitted it as their deliberate and unqualified opinion that a Permanent Settlement of the Ceded and Conquered Provinces was at that moment unseasonable. The Court of Directors being made aware of this report, to the recommendations contained in which the Indian Government were wholly opposed, informed the Governor-General in their final dispatch[1] upon the subject, that they had come to the conclusion that a perpetual settlement of these provinces would then be premature, as being likely to result in a large ultimate sacrifice of revenue. Whether such a measure would be eligible at a future period, and if so, with what modifications, were questions which they left for future discussion. At the same time they directed that no settlement should be made for a longer period than five years.

Commissioners' report against an immediate Permanent Settlement.

Court of Directors takes the same view.

§ 159.—Upon receipt of these instructions, the absolute promise of a Permanent Settlement[2] was rescinded:[3] but the rule, that, at the close of ten years comprised in the two triennial and one quartennial periods, a Permanent Settlement would be concluded for *such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable*, was declared to be in full force and effect.[4] The Board of Commissioners were accordingly required to ascertain what estates were in a state of cultivation to warrant the conclusion of a Permanent Settlement, and also to submit a report specifying the estates which did not appear to be in a sufficiently improved state of cultivation to admit of the conclusion of a Permanent Settlement without a sacrifice of those resources which might thereafter be derived from them for the exigencies of Government.[5] In the case of estates of the former class, it was declared that a revision would be made of the jama on the principle of leaving to the proprietors a net income of ten per cent. thereupon, exclusive of charges of

Formation of a Permanent Settlement to depend upon state of cultivation.

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[1] General letter of the 27th November 1811. The Commissioners, aware of the views of the Indian Government in favor of an immediate Permanent Settlement, proved the strength of their convictions and the sincerity of their opinions by resigning rather than be instruments of measures, which their judgment founded on local observation could not approve.

[2] As contained in section 5, Regulation X of 1807.

[3] By section 2, Regulation IX of 1812, for the Ceded Provinces, and section 2, Regulation X of 1812, for the Conquered Provinces and Bundlekund.

[4] By section 3, Regulation IX of 1812, for the Ceded Provinces, and section 3, Regulation X of 1812, for the Conquered Provinces and Bundlekund. The rule itself is contained, for the former in clause 4, section 29, Regulation XXV of 1803, and in clause 2, section 53, Regulation XXVII of 1803; and for the latter in section 7, Regulation IX of 1805, and in clause 6, section 4, Regulation XII of 1805.

[5] Sections 4 and 5 of Regulation IX of 1812, and sections 4 and 5 of Regulation X of 1812.

collection, and the assessment so made, would, after approval by the Governor-General in Council,[1] remain fixed for ever.

What degree of improvement was to entitle to a Permanent Settlement?

§ 160.—When the Board of Commissioners proceeded to enquire what estates were in a sufficiently advanced state of cultivation to warrant the conclusion of a Permanent Settlement, the first question which had to be determined was, what was the precise point of improvement which should be accepted as sufficient to warrant the measure, and they accordingly applied (4th September, 1812) for specific instructions, suggesting that the scale of waste land which should exclude from a Permanent Settlement ought not to vary more than from one-third to one-fourth. This proposition was generally approved. The Court of Directors, however, subsequently noticed[2] that this point was not determined in the Regulations and could not be determined by any prospective Regulation, that the question was left completely open for the future exercise of the discretion of Government, and that "it was for the constituted authorities at home, aided by the information transmitted from India, to decide whether the land was or was not in such a state as to warrant a measure irrevocable in its nature and involving so materially, not only the financial interests of the Government, but the welfare and prosperity of those living under its protection." The resolution of the Court of Directors that no settlement should become permanent until it had received their sanction, and their intimated intention of not giving such sanction except upon the very fullest information,[3] were an effectual check upon anything like precipitancy on the part of the authorities in India. Indeed a considerable time was suffered to elapse before any active steps were taken to obtain that extended information which would enable the Government of India to submit their propositions in a complete shape to the Home Authorities. This was due in the first place to the difficulty of deciding what measures were to be adopted in order to collect the required information; and, secondly, to press of work arising from the necessity of making a new settlement[4] at the close of the decennial period, which terminated in the Ceded Provinces with the Faslí year 1219 (1811-1812), and in the Conquered Provinces and Bundlekund with the Faslí year 1222 (1814-1815).

Delay in collecting the necessary information.

§ 161.—On the expiry of the decennial period in the Ceded Provinces, a settlement was made for a period of five years, from 1220 to 1224 inclusive (1812-13 to 1816-1817), and was subsequently continued[5] for a further period of five years, *i.e.* 1225 to 1229

[1] This was going beyond the authority given by the Court of Directors, who, in their letter of 1st February 1811, ordered that "no settlement shall be declared permanent till the whole proceedings preparatory to it have been submitted to us, and till your resolutions upon these proceedings have received sanction and concurrence.

[2] Dispatches of 16th March 1813, and 17th March 1815.

[3] See *ante*, p 44.

[4] If, as was originally intended by the Indian Government, the settlement of the quartennial period had become permanent, no new settlement would have been necessary. The orders of the Court of Directors arrived just before the expiration of the quartennial period in the Ceded Provinces. On its expiration some of the zemindárs were left without engagements, it being impossible to arrange the terms of a fresh settlement in time.

[5] See Regulation XVI of 1816.

inclusive (1817-18 to 1821-22). Similarly on the expiry of the decennial period in the Conquered Provinces and Bundlekund, a settlement was made for five years, 1223 to 1227 (1815-16 to 1820-21), and extended[1] for a further similar period—1228 to 1232 (1820-21 to 1825-26). A considerable amount of information had been obtained in making these settlements, and during the period of their operation the Collectors had acquired a further and most valuable knowledge of their districts. No systematic plan had, however, been laid down for conducting the operations necessary to settle the questions preliminary to a Permanent Settlement, and at the end of 1818 almost nothing had been done towards fulfilling the promises held out then for thirteen years.[2] The Board of Commissioners had expressed their doubts as to the accuracy of the materials upon which the settlement of Cawnpore (1220 to 1224) had been made; and notwithstanding that the land fit for cultivation, but uncultivated, was generally less than one-fifth, the Government resolved, and the Court of Directors confirmed the resolution, that the settlement should not be made permanent. The same principle was followed with respect to Bareilly, Shahjahanpore and other districts. The second of the quinquennial periods of settlement of the Ceded Provinces was now drawing to a close, and it became necessary to provide for making a new settlement, as the settlement already made was not to be perpetual in any of the districts.

Temporary Settlements of the Ceded and Conquered Provinces and of Bundlekund.

§ 162.—In this state of affairs Mr. Holt Mackenzie, the Secretary to the Board of Commissioners, wrote his very able "*Memorandum regarding the past settlements of the Ceded and Conquered Provinces with heads of a plan for the Permanent Settlement of those Provinces*,"[3] which, it was at once acknowledged, suggested an apparently practical plan of proceeding. Effect was finally given to his suggestions by Regulation VII of 1822, which declared the principles according to which the settlement of the Land Revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore and its Dependencies, was to be thereafter made.[4] In order to allow time for operations under the Regulation, the settlements of the Ceded Provinces and of Cuttack, which were about

Mr. Holt Mackenzie's Minute—1819.

Regulation VII of 1822.

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[1] See Regulation IX of 1818.

[2] The Board of Commissioners in their Report of the 27th October 1818 strongly advocated that the benefits of a Permanent Settlement be no longer withheld from the Ceded and Conquered Provinces; but they did not suggest any tangible mode of obtaining the information which the Court of Directors required as preliminary to their sanction. They considered a minute professional survey not to be feasible, owing to the length of time required for its completion, the *data* for this conclusion being derived from the performances of a Lieutenant Gerard, who had been appointed surveyor under the Board and employed in the Deyra Dún. They therefore recommended that the Collectors should *ascertain cursorily* the comparative state of the improvement of the villages, and that all villages should be declared permanently assessed, in which the Collector, *on this cursory survey*, should be of opinion that the reclaimable land not in cultivation did not bear a greater proportion than one-fourth to the cultivated land.

[3] Dated 1st July 1819. For the suggestions, &c. therein contained, see *ante*, 44 note.

[4] See Title and Preamble.

to expire, were continued in force for a further period of five years :[1] and, two years afterwards, the settlement of the Conquered Provinces and of Bundlekund, which was then on

[1] Clauses 1 and 2 of section 2. This carried the settlement down to the end of 1234 (1826-27). It may be convenient to notice here the settlement history of Cuttack, which though territorially a part of the Lower Provinces is connected, so far as this history is concerned, with the Upper Provinces. This province was ceded to the East India Company, as we have seen, in January 1804 ; and it was then placed under the management of two Commissioners, who took immediate steps for securing the rights of the landholders in the *Mogulbandi* lands, which by established usage were considered responsible for the revenue assessed thereupon and were held subject to this usage. On the 15th September 1804, a Proclamation was issued to the effect that a settlement would first be made for a period of one year (1212) : that, at the end of 1212, a settlement would be made for *three* years (1213-14-15) at a jama formed upon a just and moderate consideration of the receipts of 1212 and former years : that, at the expiry of this triennial period, a further settlement would be made for a period of *four* years at a jama obtained by adding to the annual rent of the preceding term two-thirds of the net increase of any one year of such term : that, at the expiry of this quartennial period, a further settlement would be made for a period of *three* years at a jama obtained by adding to the annual rent of the preceding term three-fourths of the net increase of any one year of such term : and that, at the expiration of these four settlements including a period of eleven years (*i.e.* to end of 1222), a permanent settlement would be concluded for *such lands as were in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable.* This proclamation was incorporated in Regulation XII of 1805, which recites the measures taken by the Board of Commissioners and provides generally for the settlement of the province. The rule that the jama of the last year of the quartennial settlement should become perpetual was extended to Cuttack by section 6, Regulation X of 1807, but was again rescinded by section 2, Regulation VI of 1808, which Regulation enacted that instead of a quartennial settlement, a settlement should be made for one year (1216), and then a fresh settlement for three years (1217-18-19) and that the jama of 1219 should be fixed for ever, *if the Court of Directors gave their sanction.* By the same Regulation a Special Commission was created for superintending the settlement, which, on the completion of this work, was abolished by Regulation IV of 1810, and the powers of the Commissioner transferred to the Board of Revenue. The orders of the Court of Directors being opposed to the perpetuity of the settlement, section 2, Regulation X of 1812, rescinded the absolute promise of a Permanent Settlement contained in sections 5 and 6 of Regulation X of 1807 : but section 3 of the same Regulation declared to be in full force the rule that, at the expiration of 1222 a Permanent Settlement would be concluded for such lands as might be in a sufficiently improved state of cultivation to warrant the measure. The Board of Revenue were directed by section 5 (see *supra*) to submit the necessary report. A further change was made by Regulation I of 1813, which directed a settlement for one year (1220), then a settlement for two years (1221-22), at the expiry of which the Board were to conform to the provisions of section 5, Regulation X of 1812. The Report of the Board as to what lands were and were not in a state of cultivation to warrant a Permanent Settlement was not however sent in ; and Regulation III of 1815, reciting that unavoidable delay had occurred in providing for the revision of the settlement, continued the existing arrangement till the end of 1223. Regulation VI of 1816, reciting that the information acquired by Government respecting the limits and produce of estates was too imperfect to afford grounds for the adjustment of a perpetual assessment, declared that the existing settlement should remain in force for a further period of three years, *i.e.* to the end of 1226. Disturbances, due in a great measure to the operation of the Sale Law, now took place, and a Special Commissioner was appointed by Regulation V of 1818, and was vested with the powers of the Board of Revenue as well as with judicial powers for the administration of civil and criminal justice. Regulation XIII of 1818 extended the settlement for a

the point of expiring, was extended for a further similar period.[1] In 1826 it was found necessary to extend the settlement of the Ceded Provinces for a further period of five years—to the end of 1229 (1831-32)—"until a careful revision of the settlement can be completed—" and this was accordingly done by section 2, Regulation II of 1826.

Provisions of Regulation VII of 1822 not carried into effect.

§ 163.—No effectual progress was however made in carrying out the inquiries contemplated by Regulation VII of 1822; and, when Lord William Bentinck arrived in Calcutta, and assumed the office of Governor-General (4th July, 1828), little or nothing had been done towards accomplishing the object with which this Regulation had been passed six years before. It was said that the successful working of the enactment would entail an amount of labour for which Collectors could not possibly find leisure amidst the press of other duties; and that the detailed inquiries[2] required by its provisions would take a century for their completion. There can be no doubt that the work set to be performed was wholly beyond the powers of the agency available for its performance; and the utter hopelessness of bringing any portion of it to a conclusion deterred even the most energetic from making a commencement. Lord William Bentinck applied himself to the subject, and, after mastering its details in personal consultation[3] with the Revenue Officers, endeavoured to devise a remedy for the undoubted mischief caused by the doubt and uncertainty resulting from the non-fulfilment of promises so often repeated.

Reasons for this.

Remedy applied by Regulation IX of 1833.

§ 164.—The remedy devised was twofold—to lessen the difficulty and detail of the inquiries to be made in order to settlement; and to increase the agency available for making these inquiries. This twofold remedy was incorporated in Regulation IX of 1833, section 2 of which repealed so much of Regulation VII of 1822 as prescribed that the amount of jama to be demanded from any mahal should be calculated on *an ascertainment of the quantity and value of actual produce, or on a comparison between the cost of production and value of produce.*[4] The repeal of this single provision removed an enormous amount

further period of three years, to the end of 1229, in order to "afford due time to the revenue officers to collect the materials necessary for the formation of a settlement on proper principles." The materials were not however collected, and clause 2, section 2 of Regulation VII of 1822, extended the settlement for five years, to the end of 1234. Act VI of 1837 declared the then existing settlement in force until a new settlement should be completed and confirmed. The settlement so completed and confirmed extended to the end of 1274. Before its expiry, Act X (B.C.) of 1867 was passed, which continued such settlement for a further period of *thirty years, i.e.* to the end of 1304. The Province of Cuttack (which includes the Districts of Cuttack, Puri and Balasore) has not therefore been as yet permanently settled, and is not likely to be so until the close of the present century.

[1] By section 2 of Regulation IX of 1824. The extension was to the end of 1237.

[2] See *ante*, § 42.

[3] During a tour of the North-Western Provinces made some two years after his arrival.

[4] When the Indigo Planters of Nuddea and Jessore called the provisions of the Enhancement Law into active operation (see *ante*, § 63) it was attempted to calculate the margin for rent in this way, and the Author amongst others made the experiment. The result in a large number of cases was identical. The native evidence on the one side went to show the most remarkable profits, while that on the other side (if believed) proved that the raiyats invariably cultivated at a loss. How persons without capital were able to meet this loss year after year was not very obvious and did not apparently strike the witnesses or those who called them, as requiring explanation. To draw

of work not compensated by the satisfactory nature of the results obtainable therefrom. The third section gave an almost equal amount of instant relief by repealing so much of Regulation VII of 1822 as prescribed that the judicial investigation into and decision on questions of disputed private claims should be conducted simultaneously with the ascertainment of, and determination on, the amount of the Government demand. Settlement Officers were thus enabled to give their full time and attention to the assessment of the land revenue, leaving these questions of disputed right for subsequent decision.[1] The increase of agency available for settlement work was effected by creating the office of Deputy Collector, which was declared open to Natives of India of any class or religious persuasion.[2] Deputy Collectors were to be subordinate to the Collector under whom they might be placed, and were required to perform all duties assigned to them by that functionary, who was empowered to employ them in settlement duties, in the superintendence of the Government Khas Mahals, and generally in the transaction of any other part of the duties of a Collector.[3]

Deputy Collectors appointed.

§ 165.—A practicable task being now presented to the Revenue Officers of Government as the result of these changes, settlement work was recommenced with fresh zeal and made real progress under the auspices of Mr. Robert Bird. In order to avoid the injurious consequences of temporary settlements of short duration, and to allow ample time for the collection of full materials for future decision, it was now determined to make a settlement for a period of thirty years. The assessment of the North-Western Provinces was completed in about ten years. The settlement of the districts having however been made for different periods, and the duration of the settlement, as stated in the engagements of the Malguzárs, not always agreeing with that sanctioned by Government, Act VIII of 1846 was passed to avoid the confusion and litigation which might in consequence arise, and also to provide for the continuance of the then existing settlements until a fresh revision should take place.[4] The first section of this Act fixed the jama of each district up to and until a certain date specified therein. The first settlement to expire according to these provisions was that of Saharanpore, which was fixed up to the 1st July 1857. The last to expire was that of Banda, which was fixed up to the 1st July 1874. The settlements of the remaining districts were fixed up to dates falling within the intermediate years. Section 5 of the Act provided for the payment of the same jama after those dates from year to year until a revision.

Thirty years' Settlement of the N.-W. Provinces.

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an average between such opposite statements was a work which could only be done by guess, judicial determination finding no place for its operation.

[1] It will be remembered that the old settlements so often renewed were now on the point of expiring: and the work of reassessment was therefore most urgent.

[2] It has been usual to consider Lord William Bentinck as the inaugurator of the introduction of natives to honourable employment in the public service. It is proper, however, to bear in mind, that natives had been employed for many years before this in the Subordinate Judicial Service.

[3] Sections 20, 21 of Regulation IX of 1833—see these and the remaining sections.

[4] *Verbatim* from the Preamble to the Act.

§ 166.—It thus happened that the settlements of the districts of the North-Western Provinces began to fall in for revision at the period of an important political crisis in the history of the country, namely, the period of the Mutiny and the subsequent transfer of the Government from the Company to the Crown. After the suppression of the Mutiny and the restoration of order, the subject of the Permanent Settlement of the land revenue of India was considered by Her Majesty's Government, who came to the deliberate conclusion that a settlement in perpetuity in all districts in which the conditions absolutely required as preliminary to such a measure then were or might thereafter be fulfilled, was a measure dictated by sound policy, and calculated to accelerate the development of the resources of India; and to ensure, in the highest degree, the welfare and contentment of all classes of Her Majesty's subjects in that country.[1] It was accordingly resolved to sanction a Permanent Settlement of the land revenue throughout India, to be introduced gradually into all districts or parts of districts in which no considerable increase was to be expected in the land revenue, and where its equitable apportionment had been or might thereafter be satisfactorily ascertained. It was pointed out that a full, fair and equable rent must first be imposed on all lands under temporary settlement, and that the preliminary step of a revision was necessary in order to ensure accurate results. The Government of India were at the same time reminded that whenever a Permanent Settlement was made directly with individuals or communities for estates

Permanent Settlement of Land Revenue of India considered by Her Majesty's Government:

And its gradual introduction sanctioned.

[1] *Revenue Dispatch No.* 14 *of* 9*th July*, 1862, *published at page* 2889 *of the Calcutta Gazette of* 16*th August* 1862. The consideration of the question arose out of a Resolution of the Governor-General in Council regarding the sale of waste lands and the redemption of the land revenue thereupon. It is to be observed that the measure contemplated by the Home Government is more extensive than any scheme for a Permanent Settlement ever before entertained, seeing that the resolution was *to sanction a Permanent Settlement of the land revenue throughout India.* It was indeed considered that the Madras and Bombay Presidencies were not generally in a condition which would warrant a Permanent Settlement of the assessed lands at the then existing rates, but in both presidencies it was intended to give the benefit of the measure to such districts as from time to time became fit for it.

This important dispatch is too long to reproduce the whole of it here, but the following paragraphs will show some of the most important reasons taken into consideration by the Home Government:—

"The land revenue of India, as of all eastern countries, is less to be regarded as a tax on the landowners than as the result of a kind of joint ownership in the soil or its produce, under which the latter is divided, in unequal and generally undefined proportions, between the ostensible proprietors and the State. It is not only just but necessary for the security of the landowner that the respective shares in the produce should, at any given period, or for specified terms, be strictly limited and defined. The increase of population, the improvement of communications, and the accumulation of wealth have a tendency to increase the extent of cultivation and the value of the net produce or rent, and the Government may rightly claim to participate in those advantages which accrue from the general progress of society. This has hitherto been effected by means of periodical adjustments of the share, or at least of its value in money, which belongs to the State.

"By many persons great advantages have been anticipated from what is usually called a Permanent Settlement, that is, by the State fixing, once and for ever, the demand on the produce of the land, and foregoing all prospect of any future increase from that source. It has been urged

in which other persons possessed subordinate rights and interests, those rights and interests should be guarded with the greatest care, so as to avoid the errors acknowledged to have been committed in respect to the Permanent Settlement of Bengal.

§ 167.—There was a general consensus of opinion that, with one or two exceptions, the districts in the North-Western Provinces in whole or in part fulfilled the

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that not only would a general feeling of contentment be diffused among the landholders, but that they would thereby become attached, by the strongest ties of personal interest, to the Government by which that permanency is guaranteed. It is further alleged that by this means only can sufficient inducement be afforded to the proprietors to lay out capital on the land, and to introduce improvements by which the wealth and prosperity of the country would be increased. . . . *Her Majesty's Government entertain no doubt of the political advantages which would attend a Permanent Settlement.* The security, and, it may almost be said, the absolute creation of property in the soil which will flow from limitation in perpetuity of the demands of the State on the owners of land, cannot fail to stimulate or confirm their sentiments of attachment and loyalty to the Government by whom so great a boon has been conceded, and on whose existence its permanency will depend. . . . . *It must also be remembered that all revisions of assessment, although occurring only at intervals of thirty years, nevertheless demand, for a considerable time previous to their expiration,* much of the attention of the most experienced Civil Officers, whose services can be ill spared from their regular administrative duties. Under the best arrangements the operation cannot fail to be harassing, vexatious, and, perhaps, even oppressive to the people affected by it. The work can only be accomplished by the aid of large establishments of Native Ministerial Officers, who must, of necessity, have great opportunities for peculation, extortion, and abuse of power. Moreover, as the period for resettlement approaches, the agricultural classes, with the view of evading a true estimate of the actual value of their lands, contract their cultivation, cease to grow the most profitable crops, and allow wells and watercourses to fall into decay. These practices are certainly more detrimental to themselves than to the Government, but there can be no question that they prevail extensively. The remedy for these evils, the needless occupation of the valuable time of the public Officers employed in the revision, the extortion of the subordinate officials, and the loss of wealth to the community from the deterioration of cultivation, lies in a Permanent Settlement of the land revenue.

"The course of events which has been anticipated is, indeed, only that which has taken place in every civilized country. Experience shows that in their early stages nations derived almost the whole of their public resources in a direct manner from the produce of the soil, but that, as they grew in wealth and civilization, the basis of taxation has been changed, and the revenue has been in a great degree derived indirectly by means of imposts on articles which the increasing means of the people, consequent on a state of security and prosperity, have enabled them to consume in greater abundance. I am aware that it has been stated as an objection to promoting such a course of things in India that, in most European countries, the advantages of this change have been mainly appropriated by the large landowners; but it must be remembered that in India, and especially in the districts under raiyatwárí settlement, the great bulk of the agricultural population are the proprietors, subject only to the payment of the assessment, of the lands which they till; and that, consequently, the benefit of a Permanent Settlement would be enjoyed, not by a narrow and limited class, but by the majority of the people.

"The apprehension of a possible fall in the relative value of money, which has been previously noticed, though deserving consideration, does not seem to Her Majesty's Government to be of sufficient moment to influence their judgment to any material extent in disposing of this important question."

conditions entitling to a Permanent Settlement upon the principles laid down by the Home Government. It was determined, therefore, in accordance with the instructions given for carrying those principles into effect, that, as the term of the thirty years' settlement in each district drew to a close, the opportunity should be taken of revising the assessment finally with a view to its being declared permanent for ever.[1] There were two classes of districts in respect of which no difficulty was felt by those charged with the duty of putting the broad rule in operation. Districts in which the estates were so fairly cultivated and their resources so fully developed as to warrant the immediate introduction of a Permanent Settlement were, as a matter of course, to be admitted to the benefit of the measure, which was on the other hand to be refused to districts in which agriculture was backward, population scanty, and rent not fully developed. There was, however, a third class whose condition was intermediate between these, consisting, that is, of districts in which a large number of estates were sufficiently cultivated to justify the introduction of a Permanent Settlement, but which at the same time contained also a considerable proportion of estates with resources imperfectly developed and which could not therefore be permanently settled on their existing assets without entailing a prospective loss to the State.[2] A difficulty was felt as to the course to be pursued in dealing with this class.

Difficulty of carrying these principles into operation in districts the resources of which are but partly developed.

§ 168.—It was proposed by the Governor-General to pave the way for the introduction of a Permanent Settlement of such districts by fixing at the time of making a thirty years' settlement, *first*, the amount of assessment payable during such settlement; and *secondly*, a further sum calculated upon a supposed development of resources which, if the proprietor were willing, he might, at the expiry of the thirty years' settlement, accept as the maximum amount demandable by the Government. Her Majesty's Government, remarking[3] that this proposal, while it failed altogether to bind the landholder, imposed a distant and possibly an inconvenient and improvident obligation on the State, were not however prepared to give their sanction to any settlement in perpetuity which was based, not on the existing assets of the estates to which it is to be applied, but on a prospective estimate of their future capabilities. They declared their readiness to authorize an immediate settlement in perpetuity, after revision, for all estates in which the actual cultivation amounted to 80 per cent. of the cultivable area; but they directed that all other estates, in which the cultivation is so backward, and the future development of their resources so uncertain that they are unfitted for a settlement in perpetuity, shall be treated in the ordinary manner and settled for a term not exceeding thirty years, no expectation being held out and no pledge being given to the proprietors in respect to the course which, at the expiration of that term, it may appear expedient to the Government of the day to pursue in dealing with their properties. It was further intimated

Orders of the Home Government as to such Districts.

[1] *Minute of the Governor-General, dated 5th March* 1864, *para.* 10—*page* 431 *of the Supplement to the Gazette of India of October* 13*th*, 1866.

[2] *Dispatch No.* 11 *of* 24*th March* 1865 *and other papers published*, pp. 431—460 *of the Supplement to the Gazette of India* of 13th October, 1866.

[3] *Dispatch No.* 11 *of* 24*th March* 1865, *idem.*

that where no pledge had been given or any expectation held out of a settlement for so long a period as thirty years, it might probably be expedient to limit its duration to a period of fifteen or twenty years, at the expiration of which term cultivation might have so far advanced as to bring the estates within the conditions which would entitle them to a settlement in perpetuity.[1]

Two conditions precedent to a Permanent Settlement.

§ 169.—In a subsequent dispatch[2] the rule thus laid down was repeated in the form of a limitation, namely, that no estate shall be permanently settled in which the actual cultivation amounts to less than 80 per cent. of the cultivable area: and a further limitation was added, namely, that no Permanent Settlement shall be concluded for any estate to which canal irrigation is, in the opinion of the Governor-General in Council, likely to be extended within the next twenty years, and the existing assets of which would thereby be increased in the proportion of twenty per cent. Subject to these two limitations, the orders for a Permanent Settlement remained unaltered. Within the next four years however, the Government had the weightiest reasons for doubting the sufficiency of these limitations, and the whole question of the wisdom and expediency of such a measure was again brought under discussion.

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[1] The result of the instructions contained in this Dispatch is that the Permanent Settlement of a *District* is not delayed until *all the estates therein* have come up to the required standard: but the fitness of each *estate* is estimated separately. Some of the estates in a district may therefore be permanently settled, while others are not. In this Dispatch the Home Government also approved of a proposal to reserve in making a perpetual settlement a right to claim as revenue a share of the produce of *mines*.

[2] Of 23rd March 1867. In the same Dispatch there is the following passage, which indicates a certain change in the opinion of the Home Government as to the expediency of a Permanent Settlement:—"In consenting to a Permanent Settlement of the land revenue at the present time, Her Majesty's Government are advisedly making a great financial sacrifice in favor of the proprietors of land. They are giving up the prospect of a large future revenue, which might have been made available for the promotion of objects of general utility and might have rendered it possible to dispense with other forms of taxation. This sacrifice they are prepared to make in consideration of the great importance of connecting the interests of the proprietors of the land with the stability of the British Government. It is right, however, that I should point out that the advantages now conferred upon the landholders are far greater than those contemplated in former times, and especially that they are quite beyond the scope of the expectations held out when Lord Cornwallis left rather less than one-tenth of the rental to the zemindar. The present assessment will leave him half; and, in addition to this, one-fifth of the cultivable land, if at present uncultivated, is to be allowed to remain free of assessment for ever. Moreover this settlement, instead of being granted (as was the case in Bengal and Bahár) at a time of extreme depression and impoverishment, is granted at a time of unparalleled hopefulness for all kinds of industry in India, when the demand for every kind of produce is rapidly increasing and the price rising, and when railways and other forms of enterprise are beginning to develop the vast resources of the country and to add to the wealth of all classes and most especially to that of those connected with the land. Under these circumstances it does not appear to be either necessary or reasonable that the Government, as trustees for the whole body of the people, should confer upon the landholder, in addition to the other benefits which I have pointed out, the whole of the great increase in the value of his land which will certainly result from the extension of irrigation without making any reservation on behalf of the public interest."

§ 170.—The Settlement Officer, who was charged with the assessment of Pargana Baghput in Zillah Mirat, came to the conclusion that Rs. 2,45,000 would be a fair assessment, regard being had to the great improvement in agriculture. The then existing assessment was only Rs. 1,48,000. It would have been altogether out of the question to raise the revenue from this amount to Rs. 2,45,000 *per saltum*. The Settlement Officer was of opinion that Rs. 2,10,000 would be as high as it would be safe to raise it in the first instance without risk to the well-being of the proprietors and prosperity of the property. The impossibility of at once fixing the assessment at Rs. 2,45,000 was due to two causes, as to which there was neither doubt nor dispute. The first of these was the general principle long admitted in practice, that too sudden a rise is likely to involve, if not ruin, the proprietors, sufficient time not being allowed them to adjust their circumstances to their diminished profits. The second cause was that *rents had not risen in proportion to the improvement* of the Pargana. The two conditions precedent to a Permanent Settlement prescribed in the Dispatch of 1867 were fulfilled, yet if a Permanent Settlement were made at the possible assessment of Rs. 2,10,000, there would be a loss for ever of Rs. 35,000 a year to Government.[1]

Question reopened.

Case of Pargana Baghput.

§ 171.—Similarly upon the revision of the assessment of the Búlandshahar District, it appeared that if a Permanent Settlement were made at the amount of revenue which it was possible for the proprietors to pay, having regard to the rents which they received from their tenants, Government would have to relinquish an increase of fourteen per cent. upon that assessment. The fact was that the share of the cultivator, according to the usage of the district at the time of settlement, was too large, and the share of the proprietor (*i.e.* the rent) too low. An upward movement of rent had however begun. The proprietors, emancipated from the conservative influence of rent in kind, were endeavouring to push their standard of rent as high as the tenantry would bear it.[2] Until this movement had been completely carried out, an assessment fair to Government could not be imposed upon the proprietors, and a Permanent Settlement at any lower assessment would be an inexpedient relinquishment of what ought to come into the coffers of the State.

Case of the Búlandshahar District.

§ 172.—The Lieutenant-Governor of the North-Western Provinces, in asking the sanction of the Supreme Government to a deferment of a Permanent Settlement, observed that the sacrifice of revenue, which would be the consequence of immediately carrying out this measure would be gratuitous and indefensible, for the increase of income to the proprietor would not represent the profit of capital invested on the faith of such settlement, but the mere assertion by the proprietor of a larger and more legitimate share in already existing assets. He considered that the sacrifice to which Government had consented in conceding a Permanent Settlement was a sacrifice of future revenue from

Permanent Settlement inadvisable where rental not developed.

[1] See *Minute of the Lieutenant-Governor of the North-Western Provinces, p. 4 of Extra Supplement to the Gazette of India of 3rd October*, 1871.

[2] The Government did not claim to share in any further enhancement due to improvement from expenditure of labour and capital or rise in prices. See *Minute of the Lieutenant-Governor, p. 19, Extra Supplement to the Gazette of India of 3rd October*, 1871.

improvements accelerated by the increased investment of capital by proprietors, when secure of the whole result:[1] but that in the case of a settlement based on an imperfectly developed rental, the sacrifice would be of future revenue, created by no such expenditure, but simply by the exertion of proprietary power in increasing the relative share of the produce which constitutes rent. This being a process which in the nature of things would come to pass[2] equally whether the settlement were in perpetuity or for a term, the sacrifice would consequently be gratuitous, made without any corresponding object of return.

§ 173.—Under these circumstances, it was suggested that a third condition for Permanent Settlement was shown to be necessary, namely, evidence that the standard of rent prevalent, or the estimate of "net produce" on which the assessments are based, is adequate; or, having due regard to soil facilities of irrigation and ratio of dry and wet land,

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[1] In so far as the increase would be due to the investment of capital, it might be argued that there was no sacrifice, as Government could fairly claim no part of such increase. The experience of Bengal has shown the improbability of capital being invested even when the proprietors are secure of the whole result.

[2] With the greatest respect for the opinions of the able author of the Minute from which the above is quoted, I doubt the full inference to which the assumption here contained would lead, *viz.* that proprietary power would or could be successfully exerted under the laws we have made so as to enhance the rent, *i.e.* increase the proprietor's share up to the full limit which these laws allow. It has not yet been done in Bengal (see *ante*, §§ 63-64): and there seem to be additional difficulties in the way of doing it in the North-Western Provinces. Mr. Auckland Colvin in his *Memorandum on the Revision of Land Revenue Settlement in the North-Western Provinces*, says:—"There are villages here within sixteen miles of the table at which I am writing, where it is as much as the auction-purchaser's life is worth to show his face unattended by a rabble of cudgellers. He may sue his tenants and obtain decrees; but payment of those rents he will not get. A long series of struggles, commencing in our Courts, marked in their progress certainly by affrays, and very probably ending in murder, may possibly lead him at length to the position of an English "(Irish?)" proprietor. But in defence of their old rates, the Bramin or Rajpút or Syud community, as the case may be, ignorant of political economy, and mindful only of the traditions which record the origin and terms of their holding, will risk property and life itself." In a note he mentions the case of a village in Shahjahanpore sold for arrears of revenue and purchased by a Bunia, who was soon glad to dispose of it to a Mahomadan Vakil, under whose regime the tenants, many of whom had been the worst possible characters, became comparatively reformed, but still *objected decidedly either to pay full rates, or allow other tenants to take their land.* The Assistant Settlement Officer, who reported the case, adds "I believe the Zemindár's agent is most careful never to remain in the village after dark." This is a germ of the state of things which came to pass in Ireland. One or two instances of violent resistance, inaugurated by the "worst, possible characters" may create a precedent which others, whose antecedents are not equally bad, will however follow under the influence of similar exciting causes. The auction-purchaser is generally the very man who has the means at his disposal to work the law. What does his failure indicate?

In making the above remarks I fully bear in mind that there is a certain amount of increase within the power of the proprietor and to which tenants will submit; and that this increase is always held in abeyance, when assessment proceedings are pending and until they have been concluded, when the proprietor, having escaped the increase of revenue which would have been imposed on an increased rental, proceeds to enjoy the benefit without the burden.

is not below the level of rent throughout the country at large. The adoption of this suggestion would, in all probability, it was intimated, necessitate a re-consideration of the fitness for Permanent Settlement of estates, which had been reported fit, as fulfilling the two conditions prescribed in the Dispatch of 1867.[1] The Government of India, while admitting as indisputably correct the conclusion that the existing conditions for a Permanent Settlement were insufficient, were not however prepared to agree that the third condition above suggested would supply the insufficiency of the former rules. The Lieutenant-Governor of the North-Western Provinces appeared to assume that the share of the actual cultivator was larger than it ought to be. Until the excess enjoyed by the cultivator without right was transferred to the proprietor, the Government could not obtain the full revenue to which it was supposed to be entitled. Now, as the Government revenue is only fifty per cent. of the rent, it followed that to make up every rupee of which that revenue fell short, the cultivator would be forced to pay two rupees to the landlord. The remedy which would raise the Government revenue to its legitimate amount by first giving the proprietor a fully developed rental, could hardly be fully applied unless it were admitted that it was desirable in the interest of the State and of the public that tenants should pay generally the highest possible rents, that the restrictions placed by law or custom on the power of a landlord to increase his rents should be done away with, and that rights of occupancy should cease. This was a solution not to be accepted; but the fact that this was the only way out of the difficulty appeared to indicate something faulty in the system of assessment.

Necessity of a third condition for Permanent Settlement suggested.

§ 174.—The whole question of the Permanent Settlement being re-opened, it became necessary, in the opinion of the Government of India, to consider whether the experience, gained since the orders of 1867 were passed, showed that the conditions thereby prescribed required amendment in other respects than those noticed by the Lieutenant-Governor: and this question must, the Governor-General in Council considered, be answered in the affirmative. In prescribing the existing conditions for Permanent Settlement, it appeared to have been the intention of Her Majesty's Government to affirm two principles. The *first* was that the State ought not to demand a share of that increase in the profits of the land, which is the result of the application of the capital and exertions of the occupant.[2] The *second* was that it was not right that the State should sacrifice that share of the increased profits of the land which would almost certainly, within a period which could be easily foreseen, result from the application to the land, not of the skill and capital of the occupant, but of the skill and capital of the State itself. This latter principle had been admitted in the case of increase of value resulting from the construction of canals. There was no

Re-consideration of the entire question.

[1] A reference to the numerous papers published in the *Extra Supplement to the Gazette of India of October 3rd* 1871, will show that there were other parts of the country in which a state of things prevailed similar to that in the Bulandshahar District.

[2] This principle was expressly followed in section 30 of Act I (Bom. C.) of 1865: and it lies at the foundation of the Landlord's Enhancement Law, one of the grounds of enhancement being that the value of the produce or the productive powers of the land have been increased *otherwise than by the agency or at the expense* of the raiyat."

reason why it should not apply also to cases of construction of railways or other public works or to other causes independent of the action of the occupant of the land. Great as the additional value given to the land by works of irrigation undoubtedly was, it was hardly greater or more certain than that which was given by railways and canals of navigation, and by the opening out of new and profitable markets. When the question of the Permanent Settlement was formerly under discussion, the magnitude of the economical revolution through which India is passing was less obvious than it had since become. It might be doubted whether any parallel could be found in any country in the world to the changes which had taken place during the preceding ten or fifteen years in India, to the diminution in the value of the precious metals and the enormous increase in the prices of agricultural produce.

Principle of a Permanent Settlement on the basis of the value of a fixed quantity of produce.

§ 175.—It had been suggested, at various times and by various authorities, that the settlement of the land revenue should be made, not upon the basis of a fixed money assessment, but on the basis of the value of a fixed quantity of produce, which value would be adjusted, from time to time, according to the average prices which prevailed. A Permanent Settlement on this basis, it had been urged, might be allowed without any serious sacrifice of future interest, and the result would be in a great measure that which it had long been the desire of the Government to obtain—a system under which improvements made at the expense of the occupant of the land should lead to no increase in the demands of the State on account of its share of the produce; while, on the other hand, the State would not lose the whole of the benefit derived by the land from improved administration, from the construction of great public works, and from the general progress of the country. The Governor-General in Council did not wish to give any definite opinion on the subject, but it was one which was open to discussion.[1]

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[1] Settlement on the basis of the value of a fixed quantity of produce was the principle of Todar Mal's system, under which, before it was overlaid with the abwábs and exactions of the Mahomadan officials, the cultivators are reported to have been prosperous and contented. Todar Mal's settlement was made with the actual cultivators (see *ante*, § 67), while under our system the settlement is with rent-receivers. Restrained by good government and not impelled by the demands of the State (or of its officials, *participes criminis*) to exact or rackrent, *they* would however be unable to repeat the history of past times. Amongst the documents sent home to the Secretary of State with the papers already above referred to, were two Minutes, one by the Governor-General and the other by the Hon'ble J. Strachey (now Lieutenant-Governor of the North-Western Provinces) in which was discussed the question of Permanent Settlement on the basis of the value of a fixed quantity of produce, such value to be adjusted from time to time according to prevailing average prices "I have long believed," writes Mr. Strachey "that if a Permanent Settlement can rightly be made at all, some such principle as this is the only one on which it could reasonably be based. It is, in fact, the only principle on which a Permanent Settlement which deserves the name is possible, for there is nothing really permanent in an assessment fixed in money, the value of which goes on steadily diminishing or changing." He then gives a summary of some of the discussions which have taken place on the subject, and quotes from Mr. (now, Sir) George Campbell's *Note on the Permanent Settlement of the Land Revenue*, who refers to the commutation of tithes in England and of tithes and rents in Scotland as instances of the application of a principle by which a charge is one sense absolutely fixed, while it is liable to periodical re-adjustment with reference to the changes in the

§ 176.—Finally the Government of India came to the conclusion that it had been proved by experience that the existing conditions regarding Permanent Settlements in the North-Western Provinces were insufficient, and that those conditions could not be

Suspension of Permanent Settlement pending a decision upon the questions thus raised.

relative value of money and the chief staples of production. This principle will be readily understood from the rule for the conversion of tithes under *The Tithe Commutation Acts* (6 and 7 Will. IV., Cap. 71, amended by 23 and 24 Vic. Cap. 93, and other statutes) :—(1). Find the gross average money value of the tithe of a parish or district for seven years ending Christmas, 1835. (2). Apportion the amount of that value upon the lands of the several tithe-payers. (3). Ascertain how much corn could be purchased with such amount ; one-third of it to be laid out in *wheat*, one-third in *barley* and one-third in *oats*, at the average price ascertained by the weekly official returns of the price of corn for the seven years preceding Christmas, 1835. (4). *In every future year, make payable the price of the same quantity of wheat, barley, and oats at their average prices, founded on a like calculation of the official returns for the seven years ending at each preceding Christmas.* These official returns are published in the *London Gazette* in January of every year and state the average price of wheat, barley and oats for the seven years ending on Thursday before Christmas then next preceding.

Now to show at once how this rule would be applied to a settlement of the Land Revenue in India, let us take one staple (instead of three and in order to simplify the matter), *viz.* paddy : let us suppose that, at the time of settlement, the price of paddy was one rupee per maund, and that the assessment of an estate, instead of being fixed at Rs. 1,000, were fixed at 1,000 maunds of paddy. Let us now suppose the price of paddy to rise as a consequence of progress, improved markets, &c. and that the average price of paddy during a subsequent period of seven years (or any other period selected as the standard period of revision) came to be one rupee four annas per maund. The State would get the price of 1,000 maunds, but this price would now be Rs. 1,250, instead of Rs. 1,000. The student of Political Economy knows that this is merely a practical application of the theory of value, corn or paddy being taken as the measure of value instead of money. Owing to an increase in the quantity of the precious metals and to other causes, the relative value of money as compared with the value of other things has fallen. Owing to increased demand and other causes, the relative value of corn, paddy, has risen. If the State had originally contracted for payment in corn commutable to its equivalent in money, the State would have gained in two ways : 1st, by the increased relative value of corn : 2nd, by the diminished relative value of money. Having contracted for payment in money, it has lost in these two ways. Those who think that a Permanent Settlement, on the basis of the value of a fixed quantity of produce adjustable from time to time, would prove successful as a means of giving the State a share in that improvement in the value of the land which is due to causes of a general character, assume tacitly that the relative value of produce will continue to increase. No doubt, the tendency is that it should increase in the progress of improvement. But during the last few years, there has been in India a very extraordinary increase of the relative value of produce and an equally extraordinary decrease of the relative value of money. There may, probably will, be a re-action : and, if produce at its present high price were taken as the measure of value instead of money, the Government might again be a loser instead of a gainer. I do not say that this would be so. I merely say that the contingency should not be forgotten. The object of the Tithe Commutation Acts, it may be well to remember, was to prevent disputes and litigation by the adoption of a fixed principle of commutation. To share in the improvement in the value of land was not the main object proposed, though it has so happened that this has been the result. The proposed principle should strongly recommend itself to proprietors desirous of investing capital in the improvement of their lands. Of the increased produce which will be the result, Government will get no share, the permanent assessment being 1,000 maunds whether the total produce be more or less : but the increased produce being thrown into

applied without most serious and certain injury to the future interests of the public. The Governor-General in Council therefore requested the Lieutenant-Governor to reconsider the great question of the Permanent Settlement of the North-Western Provinces: and, meanwhile, the whole correspondence was placed before the Secretary of State, with a recommendation that, pending the further discussion of the entire subject, the orders contained in the Dispatch of the 23rd March 1867 should be held in abeyance. By a Dispatch[1] of the 21st July 1871, this recommendation was approved, and the Government of India were authorized at once to suspend all proceedings towards the Permanent Settlement of any district until the results of the re-consideration in all its bearings of this momentous question were laid before the Home Government.[2]

Realization of the land revenue in the North-Western Provinces.

§ 177.—I now turn to the mode of realizing the land revenue in the North-Western Provinces, the law on which subject has been consolidated and amended in Chapter V of "The North-Western Provinces Land Revenue Act," XIX of 1873. A "mahal" is any local area held under a separate engagement for the payment of the land revenue, and for which a separate record of rights has been framed.[3] The entire mahal and all the proprietors jointly and severally are responsible to Government for the revenue for the time being assessed on the mahal.[4] An arrear of revenue may be recovered by the following processes, *viz.*:—

I.—By serving a writ of demand (*dastak*) on any of the defaulters;

II.—By arrest and detention of his person;

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the market will increase the supply and therefore reduce the money value. As the proprietor is to pay the money value of the paddy, he will therefore have less to pay. Not only then will he receive the whole increase resulting from his capital, but the investment of such capital will diminish his former payment. It may be remarked that the difference between the proposed principle and Todar Mal's decennial revision is that Todar Mal did not absolutely fix for ever the quantity of produce: he fixed merely the quantity relatively, relative, that is, to the total quantity and varying therewith from year to year. He therefore took a share of the result of all improvements to whatever causes they were due.

[1] No. 20—see page 161 of the *Extra Supplement to the Gazette of India of 3rd October* 1871.

[2] The Despatch No. 11 of 24th March 1865 of the Secretary of State having been forwarded to the Government of the Panjáb for consideration, that Government was of opinion that any attempt to fix permanently the Government demand for land revenue would be altogether premature, the province being in a state of agricultural infancy. Of an area of upwards of 1,00,000 square miles, only 31,513 square miles were (1870) cultivated, and only one-fourth of this cultivated area was irrigated. Sir Donald McLeod, the late Lieutenant-Governor, was of opinion that it would be suicidal to declare permanent the *money* assessment, as the purchasing power of money would, he believed, be less than half in another fifty years. If however permanency must be carried into effect, he would make corn the standard Having regard to the peculiarities of the country with reference to capabilities for irrigation and distribution of population—to the extreme fluctuation of the prices of agricultural produce—and to the absence of any desire on the part of the population for a Permanent Settlement, Mr. Egerton, the Financial Commissioner, did not consider such a measure advisable.

[3] Section 3.

[4] Section 146.

III.—By distress and sale of his movable property;

IV.—By attachment of the share, or *patti*, or *mahal* in respect of which the arrear is due;

V.—By transfer of such share or *patti* to a solvent co-sharer in the *mahal*.

VI.—By annulment of the settlement of such *patti* or of the whole *mahal*.

VII.—By sale of such *patti* or of the whole *mahal*.

VIII.—By sale of other immovable property of the defaulter.[1]

§ 178.—Writs of demand may be issued on or after the day following that on which the arrear falls due.[2] At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for fifteen days.[3] Whether he has been arrested or not, his movable property may be distrained and sold, with the exception of implements of husbandry and cattle actually employed by him in agriculture, and, in the case of an artizan, of his tools.[4] In addition to, or instead of, any of these processes, the Collector may cause the share or *patti* or *mahal*, in respect of which the arrear is due, to be attached and taken under the management of himself or of an agent appointed for that purpose.[5] The Collector or such agent is bound by all engagements with subordinate proprietors or tenants.[6] Surplus profits, after defraying the cost of attachment and management, are to be applied to defray the arrear.[7] No land is to be attached for a longer period than five years. When the arrear is due in respect of a share or *patti* in a *mahal*, the Collector may, with the previous sanction of the Board, transfer such share or *patti* for a term not exceeding fifteen years to any or all of the other co-sharers, on condition of their paying such arrear and on such terms as the Board in each case may think fit.[8] When the above processes are not sufficient, in the opinion of the Collector, for the recovery of the arrear, he may report to the Board, who may order the settlement to be annulled. This is not however to be done while an attachment is in force, or while the property is under the charge of the Court of Wards.[9] When a settlement is annulled, the Collector may manage the land himself, or by an agent or farmer: but the contracts of the defaulter are not binding on any of them.[10] When a settlement of a portion of a mahal is annulled, the joint responsibility of the co-sharers is in abeyance until a new settlement is made.[11]

§ 179.—When an arrear of land revenue has become due, and the Collector is of opinion that the preceding processes are not sufficient for the recovery thereof, he may, in addition to, or instead of, all or any of such processes and *with the previous sanction of the Board*, sell by auction the *patti* or *mahal* in respect of which such arrear is due. No sale is however to be made (1) for an arrear which accrued while the property was or might have been under the jurisdiction of the Court of Wards; (2) or which accrued while the property was under attachment as above for arrears; (3) or which accrued

Sale when and how to be resorted to.

[1] Section 150. The difference between these provisions and those in force in Bengal (*ante*, p. 76 *et seq*) will not escape notice.

[2] Section 151.

[3] Section 152.

[4] Section 153.

[5] Section 154.

[6] Section 155.

[7] Section 156.

[8] Section 157.

[9] Section 158.

[10] Section 159.

[11] Section 164.

while it was under direct management by the Collector, or in farm on account of the exclusion of persons declining or failing to accept settlement, or on the annulment of a settlement as above.[1] The land is sold free of all incumbrances, and all grants become void, except the following:—(1) in permanently-settled estates, farms granted in good faith at fair rents and for specified areas for terms not exceeding twenty years, under written leases duly registered; (2) in all estates, lands held under *bonâ fide* leases at fair rents, temporary or perpetual, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship, or burying grounds, such lands continuing to be used for the purposes specified in such leases.[2] When the arrear cannot be recovered by other processes, including sale of the mahal upon which the arrear accrued, the Collector may proceed to sell any other mahal or share in a mahal or other immovable property belonging to the defaulter; but a sale does not in this case avoid incumbrances created, or contracts entered into by the defaulter in good faith.[3]

Incumbrances voided by sale—Exceptions.

Payment under protest. Suit in the Civil Court to recover amount paid.

§ 180.—Whenever proceedings are taken against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings, which shall thereupon be stayed, and may sue the Government in the Civil Court for the amount so paid. In such a suit, he may contest the accuracy of the statement of account put forward by the Revenue Authorities.[4] With this exception, however, the jurisdiction of the Civil Court is strictly barred in respect of all claims connected with or arising out of the collection of revenue or any process enforced on account of an arrear of revenue, or on account of any sum which is realizable as revenue.[5]

Jurisdiction of Civil Courts barred in other respects.

Difference between the Sale Law of Bengal and that of the North-Western Provinces.

§ 181.—It will be evident from the above that the law for the realization of the land revenue in the North-Western Provinces differs materially from that in force in Bengal. In no respect is this difference more striking than in this, that a sale is the first process resorted to in Bengal, while in the North-Western Provinces it is the last, recourse being had thereto only when there is no probability of the arrear being realized by the other processes provided by the law. Sales for arrears of revenue have at no time been in favor with the Revenue Authorities of the North-Western Provinces,

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[1] Section 166.

[2] Section 167.

[3] Section 168. Sections 169—188 contain the rules for conducting sales which are generally similar to those in Bengal (*ante*, p. 89). There are however one or two points which may be noticed. In the case of default in paying the purchase-money and of consequent resale, any resulting loss is leviable under the rules in the Code of Civil Procedure for enforcing payment of money in satisfaction of a decree (S. 176). The purchaser is liable for all revenue accruing subsequent to the date of confirmation of the sale (S. 187). When the land sold is a *patti* of a mahal, any recorded co-sharer, not being himself in arrear, has a right of pre-emption at the sum last bid, but the demand to exercise such right must be made on the day of sale (S. 188). When a mahal or a portion of a mahal is sold, a proprietor who holds *sir* land therein, is to be recorded as an ex-proprietary tenant of such *sir* land, and the rent to be paid by him is to be fixed by the Collector or Assistant Collector (S. 190).

[4] Section 189.

[5] Section 241, clauses (*i*) and (*j*).

and the question of putting a stop to such sales altogether has more than once engaged the attention of the Government. The policy of allowing the old families to be ousted and replaced by successful vakils, money lenders, and corn-dealers has been seriously doubted. Sales are not however of very frequent occurrence, and in some years there have been none.[1] A certain amount of the aversion to sales is perhaps to be found in the past history of the revenue administration of this part of the country.

§ 182.—When the Regulations passed for Bengal, Bahár, and Orissa were extended *en masse* to the Ceded and Conquered Provinces[2] without regard to the errors embodied in them, or the differing circumstances of the new provinces, the Sale Law of Bengal as part of the system was introduced in its integrity; and it was for a long time understood and acted upon, that the whole estate, and not merely the interest of the defaulter, was transferred by the sale.[3] Collectors, for the purpose of simplifying and facilitating official business, had insisted on the settlement being made with one, where many were interested. Occasionally, the persons with whom the settlement was made were those who possessed the least interest in the property. A sale thus often involved the confiscation of the rights of persons who were in no default and had no means of protecting themselves. The native officers of Government, their relations, connections, and dependents, taking advantage of manifest errors in our procedure and magnifying their results by chicanery and fraud, managed to purchase valuable estates for a mere trifle.[4] The immediate effect of all this was, in the language of Mr. Holt Mackenzie, to disjoint the whole frame of the village societies, to deprive multitudes of rights and property which their families had held for ages, and to reduce a high-spirited class of men from the pride of independence to the situation of laborers on their paternal fields.

Mistakes at the first introduction of the Sale Law into the North-Western Provinces.

§ 183.—These mischiefs at length reached such a height that the public tranquillity was in danger: and a Special Commission was created by Regulation I of 1821 for the investigation and decision of claims to recover possession of land illegally or wrongfully disposed of by public sale or lost through private transfers effected by undue influence. The Regulation contained rules for the proceedings of the Commissioners, and prescribed the principles upon which relief was to be afforded. Much mischief was corrected, and many

Special Commission of 1821.

[1] *e.g.* in 1871, see *Revenue Administration Report*, p. 57.

[2] See *ante*, § 155.

[3] See *Mr. Holt Mackenzie's Minute of* 1*st July* 1819, §§ 531—587, and *the Earl of Moira's Minute of* 21*st September* 1815, §§ 108—10, and 134-135.

[4] A vivid description of the practices resorted to and the result of them will be found in the Preamble to Regulation I of 1821. The state of things in Allahábad was thus described by the Board in 1811. "The numerous transfers by public and private sale, which in some parganas amount nearly to a total permutation of property, have not tended, from their following so immediately upon the introduction of the British Government, to render that Government popular; and as the purchasers in almost all the public sales are the actual Tehsildars, or the sureties for the nominal Tehsildars, the credit of Government is to no small degree affected from these persons having been permitted thus to pervert the influence derived to them by their connection with the public service." Mr. Holt Mackenzie thinks it clear that sale for arrears has been felt by the people as *an evil greater than the rigor of former Governments.* The result of the operation of the Sale Law in Bengal has been already described.—See *ante* pp. 77 *note*, 79 *note*, and 87 *note*.

persons were reinstated in their rights by the labours of this Commission: but in many cases the remedy came too late to repair the evil, and where the auction-purchaser had been misled by the law or by the action of Government itself, the work of restoring the former proprietor to the position occupied by him was beset with many difficulties, some of which were more or less insuperable.

Further History of the Boards of Revenue.

§ 184.—We have seen that a Board of Commissioners was established in the Ceded and Conquered Provinces by Regulation X of 1807, and was made permanent by Regulation I of 1809. In 1816 a separate Commissioner was appointed, by Regulation I of that year, for the superintendence of the revenues of the Province of Benares and that part of the Province of Bahár comprised in the Zillahs of Bahár, Shahabad, Sarun and Tirhút. This Commissioner was invested with the full authority of the Board. By Regulation I of 1817 his jurisdiction was extended to the Districts of Ramghur, Bhaugulpore and Purneah. By Regulation XXIV of the same year, the duties, powers, and authority exercised by this Commissioner were vested in a Board to consist ordinarily of two members and to be denominated *The Board of Commissioners in Bahár and Benares.* The superintendence of the revenues of the Districts of Dinajpore and Rungpore was transferred by the same Regulation to this Board from the Board of Revenue in Calcutta, to which it was however restored by Regulation I of 1819. By this last-mentioned Regulation the District of Goruckpore was transferred from the jurisdiction of the Board of Commissioners in the Ceded and Conquered Provinces to that of the similar Board in Bahár and Benares.

Regulation III of 1822. Three Boards of Revenue.

§ 185.—Regulation III of 1822 enacted that there should be three Boards of Revenue for the Lower, Central and Western Provinces, respectively. The Districts of Bhaugulpore and Purneah were now transferred to the jurisdiction of *The Board of Revenue for the Lower Provinces.* Bundlekund, Allahabad and Cawnpore were transferred to the jurisdiction of the Board of Commissioners in Bahár and Benares, who became *The Board of Revenue for the Central Provinces.* The Board of Commissioners for the Ceded and Conquered Provinces retained their jurisdiction in the remaining districts of these provinces, and became *The Board of Revenue for the Western Provinces.* In 1829 Commissioners of Revenue and Circuit were created by Regulation I, and the powers and authority of the three Boards were transferred to these officers, to be exercised "subject to the control and direction of a Sadr or Head Board to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor-General in Council; and to such restrictions and provisions as the Governor-General in Council or the said Sadr Board, with his authority or sanction, may prescribe." This is the real origin of the Board of Revenue now in existence at Calcutta.

Commissioners of Revenue appointed.

Origin of the Calcutta Board of Revenue.

Origin of the Board of Revenue of the North-Western Provinces.

§ 186.—The assessment operations, which subsequently terminated in the first thirty years' settlement of the North-Western Provinces, were soon found to require closer supervision than could be exercised from Calcutta; and accordingly in 1831 arrangements were made for deputing one or more members of the Sadr Board to be ordinarily stationed at Allahabad (Regulation X of 1831). The full powers of the Sadr Board were vested in these members on deputation, who were to act independently

of the Sadr Board, unless in the event of the number of members being reduced to one, or of a difference of opinion when two were present, in which cases any matter by law requiring the concurrence of two voices was to be referred for determination to the Sadr Board at the Presidency.[1] The members of the Sadr Board thus deputed became *The Board of Revenue of the North-Western Provinces*, the constitution and powers of which are now regulated by Chapter II of "*The North-Western Provinces Land Revenue Act*," XIX of 1873.

Land Revenue of Calcutta.

§ 187.—Provision was made for ascertaining and collecting the land revenue of Calcutta by Act XXIII of 1850, by which all assessable lands, not the property of the East India Company within the town, were assessed at the rate of three annas for each *kattha*. The land revenue was declared to have priority over all other claims, and was made recoverable by distress and sale. Any amount paid by a tenant or occupier may be deducted from the next payment of rent to the landlord. Lakhiraj tenures, of which uninterrupted possession had been held exempt from assessment for sixty years, were declared valid. All claims were to be enquired into by the Collector and reported to the Commissoner for orders. Ground rents payable from lands in Calcutta were declared to be "*revenue*" within the meaning of the 21 Geo. III. Cap. 70, section 8 of which enacts that the Supreme Court "shall not have or exercise any jurisdiction in any matter concerning the revenue or concerning any act or acts ordered or done in the collection thereof, according to the usage and practice of the country or the Regulations of the Governor-General and Council."[2]

21 Geo. III, Cap. 70, s. 8.

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[1] The Sadr Board at the Presidency was to refer in similar cases to the members on deputation (S. 10).

[2] See *Spooner and another* v. *Juddow*, IV Moo. Ind. Ap. 353, and *In the matter of Adhar Chandra Shah and others*, XI B. L. R 250, in which an order of the Board of Revenue putting liquor licenses up to sale was held to fall within the statute.

CHAPTER IV.

THE ADMINISTRATION OF JUSTICE.

§ 188.—According to Manu the object of the institution of a King is to restrain violence and to punish evil-doers; and he adds that, if a King were not to punish the guilty, the stronger would roast the weaker like fish on a spit, ownership would remain with none, the lowest would overset the highest. His Code directs that justice be administered by the King in person, assisted by Bramins and other Counsellors; or the duty may be deputed to one Bramin, assisted by three Assessors of the same class. While society remained in the patriarchal stage, it may have been possible for the King to take a personal share in the administration of justice; but when, in a later stage of development, the State assumed more extended proportions and its members, increased in number, bore a more complex relation one to another, it naturally became inconvenient, if not impossible, for him to preside in person at the tribunal of justice. The delegation of this function no doubt commenced at places distant from the royal residence, and in such places the King's local representative performed this and all other functions as his deputy.[1] Accordingly we find that the Village Headman was the Judge and Magistrate of the Village Community, and inasmuch as he collected and transmitted the Government revenue, it may be said, according to the analogy of modern times, that he was also the Collector.

Administration of justice—under the Hindú system.

§ 189.—Under the Mahomadan Government justice was distributed by two distinct classes of tribunals, *viz.* (1) those of the Kazís, who administered the elaborate system of Mahomadan law; and (2) those of the officers of Government, whose authority was regulated by no fixed rules, but was generally exercised with a view to their own interest, more especially when the litigants were aliens in race and creed.[2] The King occasionally

Under the Mahomadan Empire.

[1] Mr. Elphinstone, in the third chapter of his History of India, gives a good sketch of the administration of justice and the rules of civil and criminal law provided by the Code of Manu. Referring to *Colebrooke on the Hindú Courts of Judicature, Transactions of the Royal Asiatic Society, Vol. II, p.* 166, he mentions in a note (p. 25) that there are authorities to show that there was a regular system of local Courts, from which an appeal lay to the Chief Court at the capital, and from that to the King in his own Court, composed of a certain number of Judges, to whom were joined his ministers and his domestic chaplain, who was to direct his conscience, but though these might advise, the decision rested with the King. Below the local Courts were arbitrators in three gradations: *first*, of kinsmen; *secondly*, of men of the same trade; and *thirdly*, of townsmen. An appeal lay from the first to the second; from the second to the third, and from the third to the local Court. Under this system, there were no less than *five* appeals, enough to make modern law reformers shudder. Decision by arbitration, generally of five (*panchayat*), was very common when other means of obtaining justice were not available. The native proverb "The pancha is the supreme deity" goes to show the estimation in which this custom was held.

[2] To compare one thing with another, the pure Mahomadan law administered by the Kazí was the *jus civile*. The King's officers, like the Roman Prætors, had to supplement this law for Hindús and others for whom it did not provide. The absence of system and the rapacity of the times

inquired into petitions; but the calls of war or the other cares of State or the pleasures of the harem left little leisure for taking any regular or systematic share in the adminis-tion of justice. In the provinces, or *Subahs*, the same two classes of tribunals existed. When the *Kazí* was a man of celebrity and individual importance, his power and influence upon the distribution of justice were great in proportion: but it commonly happened that the Governors and their officers assumed the disposal of all the more important cases, while the *Kazi* became merely an officer for registering deeds and performing marriages.[1] The following are the judicial authorities[2] which we found in existence at Murshedabad immediately after the grant of the Díwání:—I. *The Názim*, who, as Supreme Magistrate, presided personally at the trial of capital offenders. II. *The Díwán*, who was supposed to decide cases relating to real estate or property in land, but who seldom exercised this jurisdiction in person. III. *The Darogha-Adálat-al-Alia*, or Deputy of the Názim in the Criminal Court, who took cognizance of quarrels, frays and abuse, and also of all matters of property excepting claims of land and inheritance. IV. *The Darogha-i-Adálat-Díwání*, or Deputy of the Díwán in the Civil Court. V. *The Faujdár*, or Officer of Police and Judge of all crimes not capital. VI. *The Kazi*, who decided claims of inheritance or succession. VII. *The Muhtasib*, who had cognizance of drunkenness, the vending of spirituous liquors and intoxicating drugs and the examination of false weights and measures. VIII. *The Muftí*, who expounded the law for the Kazí, who, if he agreed, decided accordingly. If he disagreed, a reference was made to the Názim, who called a Council of the jurisconsults. IX. *The Kanúngos*, or Registers of the lands, to whom cases connected with land were occasionally referred for decision: and X. *The Kotwal*, or Peace-Officer of the night, subordinate to the *Faujdár*.

§ 190.—The operation of these Courts was confined to the circle round about Murshedabad, and there were no proper arrangements for subordinate jurisdiction in the distant districts.[3] The *Kazí* indeed had his substitutes, but their power was exercised under no lawful and authoritative commission, and depended upon the pleasure of the people, or their ability to contest its exercise. The zemindárs, farmers and other Revenue Officers accordingly assumed that power for which no provision was made by the laws of

Exercise of judicial powers by zemindárs and others.

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prevented their *jus honorarium* from assuming either in form or substance anything like the shape of a new body of *æquitas*.

[1] The officers mentioned in the Ayín Akbarí as employed in the administration of justice and in police duties, are the Mir-í-âdl or Lord Justice, who seems to have been superior to the Kazí, whose judgments required his sanction: the *Faujdár* for keeping the peace and maintaining the police: and the *Kotwal* or Head Constable of the town. The Faujdár exercised jurisdiction in criminal cases.

[2] Letter from the Committee of Circuit at Kasim Bazar, dated 15th August 1772; *Colebrooke's Supplement*, p. 8.

[3] None of these officers went on circuit as the Judges at Westminster began to do at an early period of our judiciary.

the land,[1] and they exercised it with a view, not to justice, but their own interests. The result of this state of things was thus described in the seventh Report of the Committee of Secrecy in 1773. "The subjects of the Mogul Empire derived little protection or security from any of these Courts; and in general, though forms of judicature were established and preserved, the despotic principles of the Government rendered them the instruments of power rather than of justice, not only unavailing to protect the people, but often the means of the most grievous oppressions under the cloak of the judicial character." The Committee further stated it to be the general opinion "that the administration of justice during the vigour of the ancient constitution was liable to great abuse and oppression; that the Judges generally lay under the influence of interest and often under that of corruption; and that the interposition of Government, from motives of favor and displeasure, was another frequent cause of the perversion of justice."[2]

State of things which preceded our system.

§ 191.—Seven years after the acquisition of the Díwání, the Company's Government took the first step towards improving the administration of justice. Under the Regulations of the 15th August 1772, two Courts, a Díwání or Civil Court, and a *Faujdári*[3] or Criminal Court, were instituted for each provincial division or collectorship as then constituted. The Collector on the part of the Company as Díwán presided over the *Díwání Adálat* or Civil Court, which had jurisdiction in all disputes concerning property, real or personal, in all causes of inheritance, marriage, and caste, and all claims of debt, disputed accounts, contracts, partnerships, and demands of rent.[4] The *Kazi* and *Mufti* of the district and two Múlvís sat in the *Faujdári Adálat* or Criminal Court to expound the

Plan for the administration of justice in 1772.

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[1] Mr. Shore says that he cannot trace any delegation of power for the trial of delinquents and the infliction of punishment upon them. If it ever was exercised, he thinks it must be considered either as an encroachment on the royal prerogative, or to have existed by sufferance. He remarks however that, for enforcing the payment of the rents, they certainly (if practice be deemed an authority) were allowed a power of coercion which was sometimes exercised with a cruelty disgraceful to humanity. No doubt, once the exercise of the power was allowed, no great distinction was made between the purposes for which it was exercised. Mr. Grant considered that a zemindár's sanad "conferred an inferior juridical authority similar to that of an English Justice of the Peace.' They always exercised police jurisdiction, and were responsible for keeping the peace and for the arrest of robbers, &c. Zemindárs, talúkdárs, farmers, &c. were prohibited by section 66 of Regulation VIII of 1793 under penalty of *fine* from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts.

[2] In a letter from the President and Council of Fort William, dated 3rd November 1772, it was stated that the regular course of justice was everywhere suspended; but every man exercised it who had the power of compelling others to submit to his decisions. Governor Verelst in his instructions to the Supervisors in 1770 described every decision of the Mahomadan authorities as a corrupt bargain with the highest bidders. Speaking more especially of the Upper Provinces, the Earl of Moira wrote in 1815:—"The former system left entirely at the discretion of the Amils the lives and properties of all the population of their several jurisdictions. There was only an appeal to the immediate Sovereign of the State, and he was generally inaccessible."

[3] Sometimes improperly *Phaujdári*.

[4] The right of succession to *Zemindáris* and *Talúkdáris* was reserved for the decision of the President and Council.

Mahomadan law and determine how far accused persons were guilty of its violation: but it was made the Collector's duty to see that the proceedings were regular and the decision fair and impartial.[1] An appeal lay from these Courts to the *Sádr Díwání Adálat* or Chief Civil Court, and to the *Nizámat Adálat* or Chief Criminal Court, respectively. The *Sádr Díwání Adálat* consisted of the President and Members of Council, assisted by the Native Officers of the Khalsa or Exchequer. The *Nizámat Adálat* consisted of a Chief Officer of Justice appointed on the part of the Nawab Nazim, and styled the *Darogah-i-Adálat*, the Head *Kazí* and *Mufti* and three eminent Múlvís. It was their duty to revise the proceedings of the Faujdárí Adálat, and in capital cases prepare the sentence for the warrant of the Nazim. Their proceedings were subject to the control of the President and Council, so as to ensure regularity and impartiality.[2]

§ 192.—In 1774, when the Collectors were recalled and Provincial Councils established at Calcutta, Bardwan, Dacca, Murshedabad, Dinajpore and Patna, the administration of civil justice was vested in these Councils to be exercised by one member in rotation. The Amils who remained at the Collectors' Stations were also entrusted with certain judicial powers, but an appeal lay from their decisions to the Provincial Councils. Mr. Hastings, to whom the superintendence of the administration of criminal justice had been particularly entrusted by the Government, now found this duty too onerous, and relinquished it. The Nizámat Adálat was in consequence moved back from Calcutta to Murshedabad and Mahomed Reza Khan was, on the recommendation of the Governor-General and Council, appointed to be "Naib Súbah or Minister of the Sarkar and guardian

Subsequent changes in 1774 and 1775.

[1] In order to afford free and easy access to justice and redress, a *box* was to be placed at the door of the Kachahrí or Court-house, in which complainants might lodge their petitions at any time or hour they pleased. The Collector was himself to keep the key of the box, and was to have it opened and the contents read in his presence on each Court-day. At the same time trivial and groundless complaints were to be punished with a fine not exceeding five rupees, or corporal punishment not exceeding twenty lashes, according to the degree of the offence and the person's station in life. Dakaits were to be executed in the villages to which they belonged, "for a terror and example to others." The punishment for professional dakaits was death, and their families were to be condemned to perpetual slavery. In 1773 Warren Hastings proposed that all convicted felons sentenced for life should be sold as slaves. He argued that by this means Government would be released from a heavy expense in erecting prisons keeping guards and maintaining accumulating crowds of prisoners. The sale of convicts would moreover raise a considerable sum, if the disorders continued, and the community would suffer no loss by the want of such troublesome members.

[2] The original Regulation is dated 21st August 1772, and will be found at page 1 of *Colebrooke's Supplement*. In all suits regarding inheritance, marriage, caste and other religious usages or institutions, the laws of the Koran with respect to Mahomadans, and those of the Shaster with respect to Gentús, were to be invariably adhered to; and on such occasions the Múlvís and Bramins were to attend and expound the law. The custom of levying *chauth* (fourth part), *panchattara* (fee of five per cent.) or any other fee or commission on the amount recovered, and *itlak* or fees on the decision of cases, as well as all heavy arbitrary fines, was abolished for ever. Persons guilty of flying from one Court to another, in order to prevent and protract the course of justice, were to be considered non-suited and were also to be liable to fine. Persons guilty of preferring groundless, litigious, or vexatious appeals were to be punished by an enhancement of costs.

of his minority, with authority to transact the political affairs of the Sarkar, to superintend the Faujdárí Courts and the administration of criminal justice throughout the country, and to enforce the operation of the same on the then existing establishment, or to new model and correct it."[1] At the same time, in order to suppress *dakaity* or gang-robbery, *Faujdárs* or Native Officers of Police were appointed to the fourteen districts into which Bengal was divided, with an appropriate number of armed men for the protection of the inhabitants and the transmission of intelligence of matters relating to the peace of the country. The administration of criminal justice was, it may be observed, still conducted in the name of the Nawáb Nazim and by his officers; but the Company's Government effectually controlled and directed all its details.[2]

Separate Civil Courts established in 1780.

§ 193.—The next important change was made in 1780, when distinct Civil Courts, independent of the Provincial Councils, were established in the six divisions abovementioned. Each of these Courts was to be presided over by a Company's Civil Servant, styled *Superintendent of Díwání Adálat*, who was to have jurisdiction in all causes of inheritance to *Zemindáris*, *Talúkdáris*, *Chaudrahis* or other real property, all matters of personal property, and in short, all other causes of a civil nature. All demands of rents or revenues,[3] and all causes having an immediate relation to the public revenue, were reserved for the jurisdiction of the Provincial Councils. Petitions of appeal against the decisions of the Superintendent of Díwání Adálat were to be presented to the Provincial Council[4] for transmission to the Governor-General and Council "in their department of Sádr Díwání Adálat." It was soon found that the local jurisdiction of the six Civil Courts thus constituted was too extensive, and in the following year eighteen Civil Courts (inclusive of these six) were established at the most populous and central towns in the provinces.[5] Fourteen of these Courts were placed under the charge of Company's Ser-

Number of these Courts increased to eighteen—First Judges in the Mofussil, 1781.

[1] *Proceedings of the Governor-General and Council of 18th October 1776.*

[2] This will appear from the instructions given to Mahomed Reza Khan and the sanction accorded to arrangements proposed by him. It will be recollected that the grant of the *Díwání* conferred on the Company jurisdiction in revenue and civil matters only (*ante*, p. 2), while the Nizámat or administration of criminal justice remained in the hands of the Nawáb. Warren Hastings (letter of 10th July 1773) pointed out that cases might happen in which an invariable observance of the rule of leaving this jurisdiction in the hands of the Nawáb and his officers might prove of dangerous consequence to the power by which the Government of the country was held, and to the peace and security of the inhabitants. "Wherever such cases happen," he continues, "the remedy can only be obtained from those in whom the Sovereign power exists. It is on these that the inhabitants depend for protection, and for the redress of all their grievances, and they have a right to the accomplishment of this expectation, of which no treaties nor casuistical distinctions can deprive them."

[3] *Regulation of 11th April 1780—Colebrooke's Supplement, p. 14.* This was the first demarcation of the separate jurisdiction of *Civil Courts* and *Revenue Courts*, which exists to the present hour.

[4] Lest it might be "a discouragement to the appellant to present his petition of appeal to the same person who had decided against him in the first instance."

[5] *Regulation of 6th April 1781—Colebrooke's Supplement, p. 27.* Ten of these stations are still the head-quarters of District Courts.

vants "hereafter to be styled Judges instead of Superintendents." The remaining four[1] were placed under the Collectors, "the countries, over which it was proposed to extend their jurisdiction, being in general situated on the frontiers of the provinces and so poor and thinly peopled, that any additional Courts or jurisdiction, instead of affording relief, might be productive of vexation to the inhabitants." The duty of the Civil Courts was however to be considered entirely distinct from that of the Collectorships.

Separate Judge appointed to the Sádr Díwání Adálat.

§ 194.—The increasing work of the Sádr Díwání Adálat was found to take up more time than the Governor-General and Members of Council could spare from their other duties; and accordingly a separate Judge was (18th October 1780) appointed to this Court.[2] The Directors did not however approve of this arrangement, and in consequence of their orders the Governor-General and Council resumed charge of the Court on the 15th November 1782. At the same time it was enacted by the 21st Geo. III, Cap. 70, s. 21, as follows:—"Whereas the Governor-General and Council, or some Committee thereof or appointed thereby, do determine on appeals and references from the country or Provincial Courts in civil causes: be it further enacted that the said Court shall and lawfully may hold all such pleas and appeals in the manner and with such powers as it hitherto hath held the same and shall be deemed in law a Court of Record; and the judgments therein given shall be final and conclusive, except upon appeal to His Majesty in civil suits only, the value of which shall be five thousand pounds and upwards."[3] By the 23rd section of the same statute, the Governor-General and Council were empowered to frame regulations for the Provincial Courts and Councils.

21 Geo. III, Cap. 70.

Sádr Díwání Adálat declared to be a Court of Record

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[1] Chettra, Boglepore, Islamabad, and Rungpore.

[2] Sir Elijah Impey, Chief Justice of the Supreme Court, was the Judge appointed, on Rs. 7,000 a month. This was a politic act of Hastings to conciliate the Supreme Court, the proceedings of which in no slight degree embarrassed his administration. On other grounds also it was a wise measure, for the newly-created justiciary sadly required guidance and instruction. The new Judge's first act was to draw up a Regulation consisting of 95 sections, which consolidated the useful portion of all previous rules with proper principles of procedure, so as to make a simple Code for the Mofussil Courts. He first provided justice, equity and good conscience as the rule of substantive law to be administered in civil cases not otherwise provided for—a provision which is yet in force. The original Regulation will be found at page 37 of *Colebrooke's Supplement*. The reader is doubtless aware that Sir Elijah Impey was recalled for having accepted the office, and his appointment formed one of the articles of impeachment against Hastings. The conduct of Sir Elijah Impey was certainly irreproachable, for he declined to appropriate any portion of the salary of the new office, until the pleasure of the Lord Chancellor should be known.

[3] The 3 & 4 Wm. IV, Cap. 41, s. 24, afterwards empowered His Majesty in Council to make Regulations as to the amount or value of the property in respect of which an appeal may be made to the Privy Council: and an order was made on the 10th April 1838, fixing Rs. 10,000 as the lowest sum for which an appeal may be preferred from any Court in India as matter of right. The limit still remains at this amount. Appeals to the Privy Council in civil cases are now regulated by Act VI of 1874. There is no right of appeal in criminal cases, *The Queen* v. *Edalji Byramji and others*, III Moo. Ind. Ap 468: *The Queen* v. *Allú Parú and others*, III Moo. Ind. Ap. 488: *The Queen* v. *Jaikissen Mukhérji*, IX Moo. Ind. Ap. 168.

Judges vested with a certain jurisdiction as Magistrates.

§ 195.—Under orders of the 6th April 1781, the Faujdárs introduced in 1774 were abolished, and the Judges of the Civil Courts were invested with the power as Magistrates of apprehending dakaits and persons charged with the commission of any crime or acts of violence. They were not, however, authorized to try or punish such persons, but were to send them immediately to the Darogha of the nearest *Faujdárí* Court with a charge in writing setting forth the grounds on which they had been apprehended. Certain zemindárs were also invested with similar jurisdiction. At the same time the Nawáb was requested "to give orders that lists with the names of all prisoners in actual confinement by orders of the Faujdárí Courts be monthly transmitted to the Governor-General, with separate lists of all persons committed in the course of the month, certifying by what authority each of them was apprehended; and similar lists of all prisoners discharged within the same period, together with copies of the *fatwas* or sentences and hukms or orders of the Nazim, passed and issued in the course of the same month."[1] An officer called *Remembrancer of the Criminal Courts* was appointed on a salary of sik. Rs. 1,000 per mensem to keep these returns so as to prove an effectual check on all the persons employed in the administration of criminal justice, as well as for such other purposes as the experience of his office might suggest.

Remembrancer of the Criminal Courts.

Union of offices of Judge, Magistrate and Collector.

§ 196.—In 1787 another change of system was made in pursuance of instructions brought out by Lord Cornwallis. The Directors, stating that they were actuated by the necessity of accommodating their views and interests to the subsisting manners and usages of the people, rather than by any abstract theories drawn from other countries or applicable to a different state of things, ordered that the offices of Judge and Collector should be united in the same person, who was also to have the power of apprehending offenders against the public peace, their trial and punishment being still, however, left with the Mahomadan officers of the Nawáb.[2] The greater simplicity, energy, justice and economy expected to be the result of the measure were assigned as additional reasons for the change, which had been advocated by Sir John Shore. "People accustomed to a despotic authority," he observed, "should look to one master. It is impossible to draw a line between the revenue and judicial departments in such a manner as to prevent them clashing; and in this case either the revenues must suffer, or the administration of justice must be suspended. Accordingly, with the exception of the three Civil Courts in the cities of Patna, Murshedabad and Dacca, the European Civil Servants in each of the districts were vested with the powers of Judge, Collector and Magistrate, for their

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[1] Resolution of the Governor-General and Council dated 6th April 1781, *Colebrooke's Supplement*, p. 130. This is another and an important instance of the direct control assumed by the Company's Government over the administration of criminal justice.

[2] As Magistrates, they were also empowered to hear and determine complaints for petty offences, such as abusive language or calumny, inconsiderable assaults or affrays, and to punish the same, when proved, by corporal punishment not exceeding fifteen rattans, or imprisonment for not more than fifteen days. This was the first direct exercise of criminal jurisdiction by European functionaries in the Mofussil.

guidance in each of which capacities, a separate set of Regulations was drawn up, and their proceedings were directed to be kept wholly distinct in each department.[1]

§ 197.—Up to 1790 the administration of criminal justice had been left in the hands of the Nawáb Nazim and his officers, the European Magistrates merely arresting criminals and making them over to these authorities. It was found however that, "from the inefficacy of the authority of the English Magistrates over the zemindárs and other landholders, the course of criminal justice throughout the country remained in a very weak state," while "many of the lowest and most indigent classes of people were frequently liable to remain for a long period in confinement, where the length of their sufferings, from the delay in their trial, very often more than equalled their demerits." The numerous robberies, murders and other enormities daily committed throughout the country at the same time evinced the inefficiency of the existing system for the repression of crime. The Governor-General in Council therefore "with a view to ensure a prompt and impartial administration of the criminal law, and that all ranks of people" might "enjoy security of person and property," resolved "to resume the superintendence of criminal justice throughout the provinces." Accordingly it was enacted by a Regulation, dated the 3rd December 1790, that the Nizámat Adálat should be removed from Murshedabad to Calcutta; that it should thenceforth consist of the Governor-General and Members of Council, assisted by the Kazi-al-Kozáat or head Kazi and two Muftís; and that it "should exercise all the powers lately vested in the Naib Nazim as Superintendent of the Nizámat Adálat, leaving the declaration of the law as applicable to the circumstances of the case, to the Kazi-al-Kozáat and Muftís agreeable to former practice."

Unsatisfactory state of the Administration of Criminal Justice.

Transfer of the Superintendence of the Administration of Criminal Justice from the Nawáb Nazim to the Nizámat Adálat at Calcutta.

§ 198.—At the same time four Courts of Circuit were established for the Divisions of Calcutta, Dacca, Murshedabad and Patna, each to be presided over by two Covenanted Civil Servants to be denominated "Judges of the Court of Circuit for the division" to which they were respectively appointed, assisted by a Kazí and Muftí. The Judges were to make two circuits during the year, and to hold two gaol deliveries in each of the districts included in their divisions. "The charge against the prisoner, his confession (which was always to be received with circumspection and tenderness"), the evidence for the prosecution, and that for the defence, were to be heard in his presence and in that of the Kazí and Muftí. The *fatwa* or law applicable to the case was then to be written at the bottom of the record by the Kazí and Muftí. The Judges were carefully to consider such *fatwa*, and, if it appeared to them consonant to natural justice and to the Mahomadan law,[2] were to pass sentence accordingly and issue their

Four Courts of Circuit established.

[1] See the original Regulations, pp. 93, 131, and 253 of *Colebrooke's Supplement*.

[2] This law was at the same time modified as to cases of murder, the relations of the murdered person being debarred from pardoning the offender. It was also enacted that the doctrine of Yusaf and Mahomed should be followed without the distinctions of Abú Hanífah, or in other words that the intention of the criminal either evidently or fairly inferrible from the nature and circumstances of the case, and not the manner or instrument of perpetration (except as evidence of intent) should constitute the rule for determining the punishment. According to Abú Hanífah, it was murder to

warrant to the Magistrate for its execution, except when death or perpetual imprisonment was the punishment ordered, in which cases the execution of the sentence was to be suspended until the orders of the Nizámat Adálat were received.[1] The Judges of the Civil Courts in their capacity of Magistrates were to apprehend all murderers, robbers, thieves, house-breakers and other disturbers of the peace. They were also on complaint of such offences to issue their warrant for the arrest of the persons complained against. They were to hold a preliminary inquiry into the facts. If it appeared that the crime alleged had never been committed, or that the suspicion of the prisoner was wholly groundless, he was to be forthwith discharged. If, on the contrary, it appeared that the crime had been actually committed and that there were grounds for suspecting the prisoner to have been guilty thereof, he was to be committed for trial at the next sitting of the Court of Circuit. Murder, robbery, theft and house-breaking were non-bailable. For other offences bail might be taken. The Magistrates were invested with power to hear and determine, without any reference to the Court of Circuit, complaints of petty offences, such as abusive language or calumny, inconsiderable assaults or affrays, and to punish the same when proved by corporal punishment not exceeding fifteen rattans, or imprisonment not exceeding the term of fifteen days.[2]

Jurisdiction of the Magistrates.

Reforms of 1793. Separation of the Offices of Judge and Collector.

§ 199.—The next change of system was made in 1793, from which year are dated the REGULATIONS OF THE BENGAL CODE, with which more especially this Work is concerned. Lord Cornwallis had carried out the instructions of the Court of Directors in uniting the offices of Judge, Collector and Magistrate in the same person on his first arrival; but experience satisfied him that the result of this system would be to sacrifice the administration of justice to the supposed fiscal interests of Government. He therefore determined to vest the collection of revenue and the administration of justice in separate officers, to

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kill a child by cutting its throat with a lethal weapon such as a knife: but to kill it by holding its head under water until it was suffocated was not murder. Professional criminals understood the difference, and acted accordingly. The punishment of mutilation was abolished in the following year (1791), fourteen years' imprisonment with hard labor being substituted for the loss of two limbs, and seven years' imprisonment for the loss of one.

[1] The two Judges sat together, but, in the event of the occasional absence or indisposition of one, the other might act alone.

[2] By orders of the 15th April 1791, fine was allowed to be substituted for corporal punishment or imprisonment. By orders of 24th February 1792, the Magistrates were authorized to punish petty thefts with corporal punishment not exceeding thirty rattans, or imprisonment not exceeding one month. In the same year a reward of ten sikka rupees was offered for the conviction of each dakait, criminals released after undergoing six months' imprisonment or more were allowed a sum sufficient to maintain them for a month, and prosecutors and witnesses were allowed their expenses, all which or similar provisions are to be found in the present system. By orders of the 7th December 1792, the Police were taken out of the hands of the landholders and farmers and placed immediately under the Magistrates, who were authorized to appoint Daroghas for jurisdictions not exceeding ten coss square (a coss is about two miles) into which they were to divide their districts. Some of the rules then laid down for the guidance of the Police are to be found in the existing Code of Criminal Procedure. The village watchmen were declared subject to the orders of the Darogha.

abolish the Mâl Adálats or Revenue Courts and to withdraw from the Collectors of Revenue all judicial powers, transferring the cognizance of all causes previously tried by the Revenue Officers to the Courts of Díwání Adálat.[1] At the same time Government resolved "to divest itself of the power of interfering in the administration of the laws and regulations in the first instance; reserving only, as a Court of appeal or review, the decision of certain cases in the last resort; and to lodge its judicial authority in Courts of Justice." It was further declared that "the authority of the laws and regulations so lodged in the Courts, shall extend not only to all suits between native individuals, but that the officers of Government employed in the collection of the revenue, the provisions of the Company's investment, and all other financial concerns of the public, shall be amenable to the Courts for acts done in their official capacity in opposition to the Regulations;" and, that Government itself in superintending the various branches of the resources of the State might be precluded from injuring private property," the Governor-General in Council "determined to submit the claims and interests of the public in such matters to be decided by the Courts of Justice, according to the Regulations, in the same manner as suits between private individuals."[2]

Acts of Government and its Officers made amenable to the Civil Courts.

§ 200.—The following is the constitution of the Courts for the administration of civil and criminal justice, as remodelled by the Regulations of 1793: I.—The *Sádr Díwání Adálat* and *Nizámat Adálat*, which may be regarded as a single Court having a civil and criminal side. The Members of this Court were the Governor-General and Members of Council, with the addition, on the criminal side, of the Head *Kazí* of Bengal, Bahár and Orissa, and two *Muftís*.[3] II.—*Four Provincial Courts of Appeal and Circuit*, one for each of the Divisions of Calcutta, Dacca, Murshedabad and Patna. Each of these Courts was presided over by three Judges.[4] III.—*Twenty-three Zillah and three*[5] *City Courts*, each presided over by a single Judge, who also held the office of Magistrate for the Zillah or City under his jurisdiction, in which latter capacity he was further vested with the superintendence and control of the Police.[6] To each of these three classes of Courts was attached a Register, who was the chief Ministerial Officer of the Court, and

Constitution of the Courts under the Regulations of 1793.

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[1] The considerations which induced Lord Cornwallis to make this change are set forth in the Preamble to Regulation II of 1793, see *post*. See also *Harington's Analysis*, Vol. I, pp. 24—27.

[2] See Preamble to Regulation III of 1793. Much useful information as to the manner in which claims against Government, as distinguished from claims against its officers for malfeasance, were to be dealt with, will be found in Regulation VIII of 1806, especially in the Preamble.

[3] See section 2 of Regulation VI of 1793, and section 67 of Regulation IX of 1793. The Preamble to this latter Regulation contains a good summary of the antecedent history of the administration of criminal justice.

[4] These were in fact the Courts of Circuit established in 1790, remodelled as to their constitution and jurisdiction.

[5] At Dacca, Murshedabad and Patna. A list of all these Courts will be found in section 2 of Regulation III of 1793.

[6] See Regulation XXII of 1793.

moreover exercised minor judicial powers.[1] IV.—*Native Commissioners* for the trial of civil suits, chosen from amongst the principal proprietors of land, farmers, tehsildars, managers, under-farmers, creditable merchants, traders and shopkeepers, altamghadars, jagirdars and Kazís.[2]

Jurisdiction of the Civil and Criminal Courts—

§ 201.—The services of these Native Commissioners might be utilized in three ways: (1) as *amíns* or referees, for the trial of such suits for *money* or *personal property* not exceeding fifty sicca rupees in amount or value, as might be referred to them by the Judge; (2) as *salisán* or arbitrators, for the decision of such suits as the parties referred to them under an arbitration bond containing an agreement to abide by their decision:[3] (3) as Múnsífs, for receiving and trying suits preferred against under-renters or *raiyats* in the estate, farm, or *jagír* in virtue of which they were vested with the office of Commissioner. An appeal lay from their decisions to the Judge. These officers had no criminal jurisdiction.

Of Native Commissioners—

Of Registers—

The Registers had jurisdiction in suits for money or personal property not exceeding in amount or value 200 sicca rupees; in suits for rent-paying land, the annual produce of which did not exceed the same amount; and for lakhiráj land, the annual produce of which did not exceed twenty sicca rupees. Their decrees were not however valid until approved and countersigned by the Judge.[4] Registers had no criminal jurisdiction.

Of Judge-Magistrates.

The Judge-Magistrate in his capacity of Magistrate exercised a minor original criminal jurisdiction in respect of petty assaults and thefts, and committed persons charged with more serious offences for trial before the Court of Circuit.[5] In his office as Civil Judge he was empowered to take cognizance of all suits respecting the succession or right to real or personal property, land-rents, revenues, debts, accounts, contracts, partnerships, marriage, caste, claims to damages for injuries, and generally of all suits and complaints of a civil nature. The Judges were "invariably to state in every decree the grounds on which" it was passed; and an appeal lay from their decrees in all cases to the Provincial Court.[6]

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[1] The junior members of the Covenanted Civil Service were also attached as Assistants to the Judge-Magistrate.

[2] Natives had been employed in this way from the beginning. By the 11th article of the Regulation of the 15th August 1772, "all disputes of property, not exceeding ten rupees," were to "be decided by the Head Farmer of the Pargana to which the parties" belonged; "and his decree was to be final." By the 6th article of the Regulation of the 5th July 1781, six Múnsífs or public arbitrators at a salary of Rs. 50 each were attached to each mofussil Díwání Adálat. Regulation XL of 1793 however largely extended their employment and jurisdiction. Those who say that the system of Lord Cornwallis wholly closed the public service against natives, appear not to have sufficiently considered the provisions of this Regulation.

[3] Their decisions in these cases were final unless corruption were proved by the oaths of two creditable witnesses—Clause 3, section 10, Regulation XL of 1793

[4] Section 6 of Regulation XIII of 1793.

[5] His jurisdiction as Magistrate remained in all essential respects the same as it was constituted in 1790, Regulation IX of 1793 merely incorporating without alteration the rules applicable to his duties contained in the old Regulation of the 3rd December 1790, and one or two amendments subsequently made—see p. 142, note.

[6] Section 20 of Regulation III of 1793.

§ 202.—The Provincial Courts were empowered to try in the first instance any suit or complaint, or any matter of a civil nature transmitted for trial by the Governor-General in Council or by the Sádr Díwání Adálat. They might receive any original suit cognizable by a Zillah or City Judge and direct him to try it, if he had refused so to do. They might receive petitions respecting suits pending before or decided by Zillah or City Judges, and direct them to proceed in the matter thereof, if they had refused to do so. They were empowered to receive charges of corruption against the same functionaries; and, if the complainant made oath of the truth of the charge and gave security to prosecute it, they were to forward it to the Sádr Díwání Adálat.[1] In the exercise of civil appellate functions they heard appeals preferred from the decrees of the Zillah and City Judges; and, when the original suit had not been sufficiently investigated, or for any other reasonable cause they might take new evidence, or remand the case to have it taken. The decrees of the Provincial Courts were final in all suits in which the decree was for lakhiráj land, the annual produce of which did not exceed one hundred sicca rupees; or for any revenue-paying estate or dependent talúk, the annual produce of which did not exceed one thousand sicca rupees, and in all other cases, when the decree was for a sum of money or personal property or real property, the amount or value of which did not exceed one thousand sicca rupees. In all cases other than these, an appeal lay from the decrees of the Provincial Courts to the Sádr Díwání Adálat.[2] The same Judges were also Judges of the Court of Circuit, which, as a Court of original criminal jurisdiction, tried all prisoners committed by the Magistrates. Sentence was passed according to the *fatwa* of the *Kazí* and *Muftí*, and was carried into execution at once; unless it were a sentence of death, or of imprisonment for life, in which cases it was not to be executed until after a reference to, and receipt of the final order of the Nizámat Adálat.[3] There was no appeal from the Court of Circuit.

Jurisdiction of the Provincial Courts—

And of the Courts of Circuit.

§ 203.—The Sádr Díwání Adálat as constituted in 1793 exercised no original civil jurisdiction, being a Court of appeal and superintendence only. As an Appellate Court, it heard appeals from the decrees of the Provincial Courts in cases in which an appeal was allowed by law.[4] It might take additional evidence when for any cause it deemed it reasonable to do so.[5] Its decrees were final in all suits whatever. It was empowered to receive original suits or appeals in which the Zillah or City Judges, or the Provincial Courts had respectively omitted or refused to proceed, and could by precept command those authorities to proceed to hear and determine them. In like manner it might receive petitions respecting suits or appeals pending before the same authorities, in case they had refused to receive them, and might direct them to receive such petitions and pass proper orders thereupon. It was empowered to permit the Judges of the Provincial

Jurisdictio of the Sádr Díwání Adálat—

[1] Section 6 of Regulation V of 1793.

[2] Section 30 of Regulation V of 1793: and section 10 of Regulation VI of 1793.

[3] Section 47 of Regulation IX of 1793, which is the same almost *verbatim* as the 32nd clause of the old Regulation of 3rd December 1790.

[4] See last para. and note 2 above.

[5] The witnesses might be examined by a Judge in open Court or by the Register.

Courts and of the Zillah and City Courts to adjourn their Courts occasionally for not more than one month, such adjournments collectively not to exceed two months in the year.[1] It could suspend Judges of the Provincial or Zillah or City Courts, who wilfully disobeyed or neglected to perform the commands contained in any process, rule, or order of the Courts to which they were subordinate.[2] It was empowered to receive charges of corruption against the Judges of the Provincial Courts or of the Zillah or City Courts. Such charges could be tried by the Sádr Díwání Adálat; or, in the case of a Judge of a Zillah or City Court, by the Provincial Court; or, in the case of a Judge of a Provincial Court, by a Special Commission of three or more Judges of the other Provincial Courts: or the Governor-General in Council might order the accused party to be prosecuted in the Supreme Court of Judicature by the law-officers of Government. If the charge were established, the Governor-General in Council might remove the Judge, or suspend him from the Company's service, or pass such other order as might appear proper. The jurisdiction of the Nizámat Adálat was exercised in capital cases, and in cases in which a sentence of imprisonment for life appeared proper, such cases being referred for final orders by the Courts of Circuit. In addition to these purely judicial functions, it exercised a general superintendence over the administration of criminal justice and the Police of the country.

And of the Nizámat Adálat.

§ 204.—Such is a sketch of the constitution and jurisdiction of the Courts of justice as organized in 1793. It is usually said that the system then established exists, more or less altered, at the present day; but it might convey a more accurate impression to say that so many alterations and improvements have been made, that the architects of 1793, if now alive, would with difficulty recognize the original structure in the enlarged and improved modern edifice. In order to convey in a brief space as clear as possible a view of the changes which have been made during a period of eighty-two years, it will be convenient to take separately each of the Courts which existed in 1793 and succinctly trace its history from that period down to its abolition, or to the present time if its existence has continued so long, reserving certain important points for subsequent separate notice. This will be best done in the following order:—I. Sádr Díwání and Nizámat Adálat. II. Provincial Courts and Courts of Circuit. III. Registers. IV. Judge-Magistrates, subsequently divided into (1) Judges, and (2) Magistrates. V. Native Judicial Officers.

Plan of tracing the History of Changes subsequent to 1793.

§ 205.—In 1795, the jurisdiction of the Sádr Díwání[3] Adálat and Nizámat Adálat[4] was extended to the Province of Benares. In 1797 the limit of value for appeals from decrees passed by the Provincial Courts of appeal for money or other personal property

History of the Sádr Díwání and Nizámat Adálat subsequent to 1793.

[1] And see Regulation III of 1798, which provides for an adjournment during the *Dusserah* and *Mohurrum*. Section 10 of Regulation I of 1806 empowered the Sádr Court to disallow vacations when the work was in arrear. Vacations are now provided for by section 17 of Act VI of 1871.

[2] Section 15 of Regulation V of 1793, and section 13 of Regulation VI of 1793.

[3] Regulation X of 1795.

[4] Section 22 of Regulation XVI of 1795. By section 23, no Bramin was to suffer death. Transportation was to be substituted for the capital sentence.

was raised from one thousand to *five thousand* sicca rupees:[1] and in the following year the same limit was extended to decrees for land or other real property.[2] These changes were made with a view to diminish the number of appeals and so reduce the work of the Sádr Díwání Adálat; but, by reason of the various public duties of the Governor-General and of the Members of the Supreme Council, unavoidable delays occurred, and the number of undecided causes in appeal increased.[3] It was further considered essentially necessary to the impartial, prompt and efficient administration of justice, and to the permanent security of the persons and properties of the native inhabitants of the provinces, that the Governor-General in Council, exercising the supreme legislative and executive authority of the State, should administer the judicial functions of the Government by the means of Courts of justice distinct from the legislative and executive authority of the State. Accordingly it was enacted in 1801 that the Court of Sádr Díwání[4] Adálat and the Court of Nizámat[5] Adálat should thenceforth consist of three Judges to be denominated respectively Chief Judge, and Second and Third Judge, of whom the Chief Judge was not to be the Governor-General or Commander-in-Chief, but was to be one of the Members of the Supreme Council to be appointed by the Governor-General in Council; and the Second and Third Judges were to be appointed from among the Covenanted Civil Servants, not being Members of the Supreme Council. At the same time the Nizámat Adálat was invested with powers of suspending the Judges of the Courts of Circuit and the Zillah and City Magistrates, similar to those previously conferred upon the Sádr Díwání Adálat in the case of the same functionaries as Judges of the Provincial Courts and Zillah and City Courts. The Sádr Díwání and Nizámat Adálat were further directed to report to the Governor-General in Council all instances of wilful neglect of duty or aggravated misconduct by a Covenanted Servant employed in any of the Courts in a judicial or ministerial capacity: but, if the case appeared to involve an error of judgment only or a slight default, for which an admonition from the Court was deemed a sufficient correction, the Court were authorized, in the former case, to notice the error for the information and guidance of the party who might have committed it; and, in the latter case, to advise him of his fault and admonish him accordingly.[6]

Governor-General ceases to be a Member of the Court.

§ 206.—The jurisdiction of the Sádr Díwání[7] Adálat and Nizámat[8] Adálat was extended in 1803 to the Provinces ceded by the Nawáb Vizier, and in the course of the

[1] Regulation XII of 1797.

[2] Regulation V of 1798.

[3] Preamble to Regulation II of 1801.

[4] Section 3 of Regulation II of 1801.

[5] Section 10 of Regulation II of 1801.

[6] Sections 7 and 14 of Regulation II of 1801. These provisions have only recently been repealed. The reader may be reminded that a reference to the second column of the Chronological Table will show whether any provisions, the sections containing which are quoted in these notes, have or have not been repealed.

[7] Regulation V of 1803.

[8] Regulation VIII of 1803.

Chief Judge no longer necessarily a Member of Council.

following two years to the Conquered Provinces and Bundlekund.[1] In 1805, in order that "the separation of the judicial authority from the executive authority in all their respective branches and gradations (which formed a fundamental principle of" the "constitution" of 1793) might "be carried into full and complete execution both in form and in practice,"[2] it was enacted that the Chief Judge was no longer to be a Member of Council, but was to be selected from among the Covenanted Servants who were not Members of the Supreme Council. This provision was however rescinded in 1807, and it was enacted that the Courts of Sádr Díwání Adálat and Nizámat Adálat should consist of a Chief Judge, *being a Member of the Supreme Council*, but not the Governor-General nor the Commander-in-Chief, and of three Puisne Judges to be selected from among the Company's Covenanted Servants.[3] In 1811 it was enacted that these Courts should consist of a Chief Judge and of as many Puisne Judges as the Governor-General in Council might from time to time deem necessary for the dispatch of the business of the Courts. The words "being a Member of the Supreme Council" were here omitted as a necessary qualification for the Chief Judge.[4] In 1829 the denomination of Chief, First, Second, Third, &c. Judge was discontinued.[5] In 1808 it was enacted that, when it was necessary for the speedy determination of cases, one Judge of the Nizámat Adálat might sit and exercise the powers of the Court; but when he did not concur with the Court of Circuit, he was to wait until another Judge could sit with him before orders were passed.[6] In 1810 one Judge of the Sádr Díwání Adálat was empowered to hold a sitting of this Court, when, from unavoidable cause, a second Judge was not available, but he could not *reverse* or *alter* any decision or order until a second Judge sat with him.[7] In 1814 it was made a necessary qualification for the office of Judge of the Sádr Díwání Adálat and Nizámat Adálat that the person to be appointed should have officiated for not less than three years as Judge of the Provincial Court of Appeal or Court of Circuit; or that he should previously have discharged judicial functions, civil or criminal, for a period of not less than nine years.[8] At the same time the Sádr Díwání Adálat was empowered to transfer to their own file and try suits amounting to 50,000 current rupees, or 43,103 sicca rupees (being the amount

Qualification for the office of Judge.

Extraordinary Original Civil Jurisdiction conferred.

[1] Sections 10 and 14 of Regulation VIII of 1805, and Regulation IX of 1804.

[2] Preamble to Regulation X of 1805.

[3] Regulation XV of 1807.

[4] Regulation XII of 1811.

[5] Section 2 of Regulation III of 1829.

[6] Section 6 of Regulation VIII of 1808, and see section 17 of Regulation XXV of 1814.

[7] Section 6 of Regulation XIII of 1810. Two Judges had been previously necessary to hold a sitting. In 1831, the rules as to the powers of a single Judge in the Sádr Díwání and Nizámat Adálat were further modified and amended by Regulation IX of that year. See also section 16, Regulation XXV of 1814 and Act II of 1843. The latter Act enacted that if in trying an appeal, regular or special, a single Judge was of opinion that the decision ought to be reversed or altered, he was to call in two other Judges, and the three Judges sitting together were to decide the appeal without any additional voice.

[8] Regulation XXV of 1814.

fixed for Appeals to the King in Council), whenever, from pressure of business in the Provincial Courts, it appeared that they could in this way be more conveniently or expeditiously tried.[1]

Sádr Díwání and Nizámat Adálat for the Western Provinces.

§ 207.—In 1831 a Court of Sádr Díwání and Nizámat Adálat was constituted for the Western Provinces;[2] and the jurisdiction of this Court of Nizámat Adálat was declared to extend to the Province of Kumaon and the Saugor and Nerbudda territories. The Court was to consist of one or more Judges, assisted by two Muftís and a Register, and was to be stationed at Allahabad or any other place directed by the Governor-General.[3] Provision was made in the same year for referring questions upon which there was an equality of voices in either Court for the decision of a Judge of the other Court: and it was declared sufficient for the latter to form and record his judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their vakíls.[4] The Court of Sádr Díwání and Nizámat Adálat at Calcutta was abolished in 1862 upon the establishment of the present High Court under the provisions of the 24 & 25 Vic. Cap. 104, s. 8.[5] The Court of Sádr Díwání and Nizámat Adálat of the Western Provinces was abolished in 1866, on the establishment of a High Court for the North-Western Provinces under the provisions of section 16 of the same Statute.

Abolition of the Courts of Sádr Díwání and Nizámat Adálat.

History of the Provincial Courts of Appeal and Courts of Circuit after 1793.

§ 208.—Turning now to the Provincial Courts and Courts of Circuit, provision was made in 1794 for forming two Courts of Circuit in each division so as to expedite the gaol deliveries which were to be held half-yearly in each zillah. One Court was to consist of a Judge, the Register and the Kazí: and the other of a Judge, one of the Assistants to the Register and the Mufti.[6] The Third Judge was to remain at the Sádr station in order to perform the other duties of the Court: and the three Judges were to do this in rotation.[7] The same Judge was not to make two circuits successively to the same districts. In 1795 a Provincial Court of Appeal[8] and Court of Circuit[9] was established for the Province of Benares. In 1797 it was enacted that there should be only one Court on Circuit, which was to be presided over by the second and third Judges

Provincial Court of Appeal and Circuit of Benares.

[1] Clause 1, section 5 of Regulation XXV of 1814.

[2] See *ante* § 185.

[3] Regulation VI of 1831.

[4] Sections 9 and 10 of Regulation IX of 1831. For an example see *Udey Kunwar* v. *Roshan Ali and others*, VI B.L.R. 283 and XIII Moo. Ind. Ap. 585.

[5] The Supreme Court was abolished at the same time and by the same provisions. The Judges of both Courts became Judges of, and the jurisdictions of both Courts were transferred to, the new High Court. The change is usually described by saying that the Supreme and Sádr Courts were amalgamated in the High Court.

[6] Section 3 of Regulation VII of 1794; and see sections 11 and 12 of Regulation XXV of 1814 as to the powers of the Judge who remained at head-quarters.

[7] Section 4, Regulation VII of 1794; and see section 8, Regulation I of 1806; Regulation I of section 3, Regulation V of 1814.

[8] Regulation IX of 1795.

[9] Section 5, Regulation XVI of 1795.

alternately, attended by the Kazí and Mufti alternately.[1] In 1799 provision was made for holding a monthly gaol delivery in the cities of Dacca, Múrshedabád and Patna.[2]

And of Bareilly.

In 1803 a Provincial Court of Appeal[3] and Circuit[4] was established at Bareilly for the provinces ceded by the Nawáb Vizier. The number of Judges in all the Provincial Courts was raised from three to four in 1814:[5] and in 1826 the Governor-General in Council was empowered to appoint to each Court as many Judges as were necessary for the dispatch of business.[6] Three years' previous service as a Judge or Magistrate, or six years previous discharge of judicial functions, civil or criminal, was, in the former year, made a necessary qualification for the office of Judge of a Provincial Court.[7]

Difference of opinion—Powers of a single Judge, &c.

§ 209.—It was enacted in 1793 that, in all cases of a difference of opinion between the Judges of the Provincial Court of Appeal and Circuit, the opinion of the majority was to determine; that, when there were only two Judges present, the senior was to have the casting vote; and that two Judges were necessary to hold a Court of Appeal.[8] In 1797, it was provided that in cases, in which the decisions of the Provincial Court were final, the casting vote of the senior Judge should prevail only when it was for affirming the decree of the lower Court; and that, when it was for reversing or altering such decree, the case should lie over until the return of the third Judge from circuit, when it should be decided by a majority of voices.[9] In 1814 it was enacted generally that, in all cases of a difference of opinion between two Judges, the determination was to be suspended until the opinion of a third Judge could be taken and the decision was then to be according to the majority of voices.[10] One Judge of the Provincial Court was in 1810 empowered to hold a Court of Appeal, when from unavoidable cause two Judges were not available: but, if he were of opinion that the decision or order ought to be reversed, he was not to pass final orders until one or more of the other Judges could sit with him.[11] It was subsequently enacted that, if a second Judge sitting afterwards upon the same appeal concurred in the opinion of the previous Judge, the decree might be passed accordingly without waiting for a sitting of both Judges.[12]

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[1] Section 2 of Regulation III of 1797.

[2] Regulation II of 1799.

[3] Section 2, Regulation IV of 1803.

[4] Section 2, Regulation VII of 1803.

[5] Regulation V of 1814.

[6] Regulation I of 1826. The official designations of First, Second, Third, Fourth, Judge &, were abolished by section 2, Regulation III of 1829.

[7] Section 2, Regulation XXV of 1814.

[8] Regulation XLVII of 1793, extended to Benares by Regulation XXV of 1795. See as to the Ceded Provinces Regulation XV of 1803, extended to the Conquered Provinces, &c, by section 17, Regulation VIII of 1805.

[9] Section 7, Regulation III of 1797.

[10] Sections 9 and 14 of Regulation XXV of 1814. See also section 4 of Regulation III of 1829.

[11] Section 2 of Regulation XIII of 1810.

[12] ection 8 of Regulation XXV of 1814.

§ 210.—In 1797 the decrees of the Provincial Courts for money or personal property not exceeding five thousand rupees in amount or value were made final[1] In 1808, an original civil jurisdiction was given to the Provincial Courts in all regular suits for an amount or value exceeding 5,000 sicca rupees, which were thenceforth to be tried in these Courts and not in the Zillah and City Courts.[2] Provincial Courts were further empowered in 1814 to transfer to their own files from those of the Zillah or City Courts, and try suits exceeding Rs. 1,000 in value or amount, when from pressure of business in the lower Courts it appeared that they could be so tried more conveniently and expeditiously.[3] In 1829 the powers of the Courts of Circuit were transferred to the newly created Commissioners of Revenue and Circuit; and the powers and authority of the Judges of the Provincial Courts in their capacity of Judges of Circuit ceased.[4] The Law Officers of these Courts were abolished in the same year.[5] Regulation V of 1831 made wholly new provisions for the administration of civil justice; and the Governor-General in Council was thereby empowered to introduce its provisions by an order in Council into any district into which he deemed their introduction proper. From the date fixed in such order of Council for the operation of the Regulation in such district, the Provincial Court was to cease to receive original suits and appeals. Finally the Governor-General in Council was empowered by Regulation II of 1833 to abolish any Provincial Court, as soon as the provisions of Regulation V of 1831 had been introduced into all the districts constituting the jurisdiction of such Court. Effect was almost immediately given to this power, and the Provincial Courts ceased to exist.

Jurisdiction.

Courts of Circuit and Their Law-Officers abolished.

Abolition of the Provincial Courts of Appeal.

§ 211.—In 1794 Zillah and City Judges were empowered to refer to their Registers[6] for trial and decision suits for money or personal property not exceeding in amount or value two hundred sicca rupees; or for *malguzarí* (revenue-paying) land, the annual produce of which did not exceed the same amount; or for lakhíráj land, the annual produce of which did not exceed twenty rupees. In cases for money or personal property

History of Registers subsequent to 1793.

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[1] Section 2, Regulation XII of 1797.

[2] Sections 2 and 3, Regulation XIII of 1808. By section 2 of Regulation XIX of 1817 the jurisdiction of City and Zillah Judges was raised to Rs. 1,000, the plaintiffs in suits between Rs. 5,000 and 10,000 being allowed the option of instituting their cases in the Courts of these Judges or in the Provincial Courts. When the Provincial Courts were abolished, the original jurisdiction of the Zillah and City Judges was extended to all suits without limit of value—see clause 5, section 27, Regulation V of 1831.

[3] Section 3, Regulation XXV of 1814.

[4] Sections 3 and 5, Regulation I of 1829.

[5] Section 7, Regulation III of 1829.

[6] These Registers, as also the Registers of the Sádr Díwání and Nizámat Adálat, and of the Provincial Courts of Appeal and Circuit, were covenanted civil servants, and their offices afforded excellent training for the higher office of a Judge. They were the Chief Ministerial Officers of the Courts to which they were attached, and also exercised minor judicial functions. The Register of the Sádr Court was empowered to take evidence when directed to do so by the Court, and discharged other important functions, acting, for example, as Secretary to the Court in the exercise of its important administrative powers; and see section 1 of Act XVII of 1841.

not exceeding twenty-five sicca rupees in amount or value, the decision of the Register was final, subject to revision by the Judge. In all other cases decided by him, an appeal lay to the Provincial Court of Appeal:[1] but in the following year this appeal was directed to lie to the Zillah or City Judge,[2] whose decision was declared final.[3] In 1800 Zillah and City Judges were empowered to refer to their Registers appeals from the decisions of Native Commissioners, in which the property in dispute did not exceed twenty-five sicca rupees; and the decrees of the Registers thereupon were final;[4] but this appellate jurisdiction was taken away[5] in 1803, the jurisdiction of Registers to try original case referred to them by the Judges being at the same time extended to suits for money or other personal property not exceeding five hundred sicca rupees in amount or value; for malguzari land the annual produce of which did not exceed the same amount; for lakhíráj land, the annual produce of which did not exceed fifty sicca rupees; and for other real property, the computed value of which did not exceed five hundred sicca rupees.[6]

Special Jurisdiction of Registers.

§ 212.—In 1814 the Governor-General in Council was empowered to invest Registers of tried ability in special cases with jurisdiction to try such appeals from Munsífs or Sádr Amíns, or original suits exceeding five hundred rupees in value or amount, as might be referred to them by the Zillah and City Judges. Their decisions on appeal were final unless the Zillah or City Judges saw reason to admit a second or special appeal. Their decrees in original suits so referred and tried were appealable to the Provincial Courts.[7] In 1821 Registers stationed at places other than the head-quarters of the Court of the Zillah or City Judge were empowered to receive original suits or appeals such as might be referred to them under the provisions just noticed.[8] Judges and Magistrates were by Regulation XI of 1824 empowered to depute their Registers, Assistants or other Covenanted Servants subordinate to them to make local investigations for the purpose of determining boundary disputes, contested rights of possession or other matters connected with pending civil suits or subjects of inquiry in the criminal court. Section 2, Regulation VIII of 1794 and the corresponding enactments,[9] which authorized the reference of civil suits for trial to the Registers of the Zillah and City

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[1] Sections 3—7, Regulation VIII of 1794.

[2] Section 3, Regulation XXXVI of 1795.

[3] Section 4, Regulation XXXVI of 1795.

[4] Section 2, Regulation III of 1800.

[5] Clause 4, section 6, Regulation XLIX of 1803.

[6] Clause 1, *id.*

[7] Section 9 of Regulation XXIV of 1814; and see section 9 of Regulation II of 1821, and Regulation III of 1824.

[8] Section 11 of Regulation II of 1821. Section 14 of the same Regulation abolished the office of Register of the Provincial Courts of Appeal and Circuit.

[9] So in the original, but the draughtsman's work has not been done very accurately. Section 2 of Regulation VIII of 1794 is merely a repealing section, and the enacting provisions are contained in the sections that follow, and in later Regulations.

Courts, were repealed by clause 1, section 29, Regulation VII of 1831; and the Registers' Courts were thus in effect abolished.[1]

§ 213.—We have seen that the offices of Judge and Magistrate were united in the same person under the system of 1793. In 1795 this system was extended to the Province of Benares—three Zillah, and one City, Courts being established therein.[2] In the same year the jurisdiction of the Bardwan Court was divided, and a new Court established at Húghlí.[3] In 1803, the system was extended to the Provinces ceded by the Nawáb Vizier, and seven Zillah Courts were constituted in those provinces.[4] In 1810 a permissive Regulation was passed, under the provisions of which the Governor-General was empowered to appoint a person other than the Judge of the Zillah or City to hold the office of Magistrate, whenever it was considered expedient to make such an appointment: and also to invest the Magistrate of any Zillah or City with a general concurrent authority as Joint Magistrate in any contiguous or other jurisdiction or in any part thereof.[5] In 1821 a further permissive Regulation was passed empowering the Governor-General in Council to invest a Collector with the powers of a Magistrate or Joint-Magistrate: and to invest a Magistrate, Joint or Assistant Magistrate with the powers or any of the powers of a Collector.[6] Collectorships or parts of Collectorships having been placed in charge of Zillah and City Judges and of Registers,—doubts arose as to the legality of this arrangement; and a Regulation (V) was passed in 1825 to validate what had been done, and to empower the Governor-General to make similar arrangements thereafter, when expedient.

History of Judges and Magistrates subsequent to 1793.

Union of offices in the same person.

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[1] It was only in 1871 that the law relating to the office (Regulation XIII of 1793) was repealed.

[2] Regulation VII of 1795.

[3] Section 7 of Regulation XXXVI of 1795.

[4] Regulations II and VI of 1803.

[5] Regulation XVI of 1810, which also provided for the office and duties of Assistant Magistrate. This was the origin of the term "Joint-Magistrate," which has now no real significance beyond designating two grades of Covenanted Servants with reference to the salaries drawn by those who are placed therein. When the offices of Magistrate and Collector were united under Lord William Bentinck's administration (1831), it was soon found that the Collector-Magistrate was unable to cope with the judicial portion of his duties, and accordingly Joint-Magistrates and Deputy-Collectors on Rs. 1,000 per mensem, and Head Assistants on a salary of Rs. 700 per mensem, were appointed in order to render more efficient aid than could be given by Assistants vested with such powers as could be conferred under the Regulations then in force. Head Assistants were turned into Joint-Magistrates of the second grade by a Government Order of the 16th August 1836. When the offices of Collector and Magistrate were separated in 1837, the first grade Joint-Magistrates became Magistrates, but their salaries were in 1842 reduced to Rs. 900 per mensem. When the same offices were again united in 1859, they again became Joint-Magistrates. The Code of Criminal Procedure makes no mention of Joint or Assistant Magistrates; and save as indicating the grades of Covenanted Civilians, to which grades certain salaries are attached, the terms are now obsolete. As to the powers of Assistant Magistrates under the old law, see also Regulation XIII of 1797, and Regulation III of 1821.

[6] Regulation IV of 1821, which also provided for the duties of Assistant Collectors.

Jurisdiction of Magistrates enlarged.

§ 214.—In 1818, Magistrates were vested with power to pass in certain classes of cases a sentence of imprisonment with hard labour for a period not exceeding two years, and of corporal punishment not exceeding thirty stripes of a ratan.[1] In 1824, the Magistrates and Joint-Magistrates were vested with the summary jurisdiction which had previously been exercised by the Civil Courts in the case of disputes as to land or the right to use water, and they were empowered to maintain possession, leaving persons who alleged a title without possession to enforce such title by a regular suit in the Civil Court.[2] In 1829 it was declared competent to the Governor-General in Council to direct any Judge of appeal or other Judge, not being the Magistrate by whom the commitments had been made, to hold the Sessions of gaol delivery for any City or Zillah with the powers and authority of a Court of Circuit.[3] Ten months afterwards the Governor-General in Council was further empowered to invest, by an order in Council, the Zillah or City Judges with full powers to conduct the duties of the Sessions.[4] The Sessions Judges so appointed had however no jurisdiction to hear appeals from Magistrates, these appeals still lying to the Commissioners, to whom had been transferred the powers of the Courts of Circuit.[5] As the office of Sessions Judge and Magistrate still continued to be united in the same person, it was absolutely necessary that the appellate authority should rest elsewhere. The inconvenience of the same class of officers exercising the powers of Committing Magistrates and Sessions Judges, the latter being unable to try cases committed by themselves in the former capacity, caused considerable obstruction; and moreover the united work of Sessions and of the Civil Court left little leisure for the performance of magisterial duties. To remedy these difficulties, the provisions of Regulation IV of 1821 were called into operation, and the exercise of the functions of Magistrate were transferred to the Collector.

Governor-General empowered to vest Judges with authority to hold Sessions.

§ 215.—The transfer of Sessions duties from the Commissioner to the Judge was at first intended to be made only in exceptional cases when the pressure of business devolving upon a Commissioner rendered this course advisable; but the exception soon became the rule, the Commissioners being very generally unable to manage the Sessions work in addition to the other duties of their office. In 1835 it was made competent to the Governors of the Presidencies of Fort William in Bengal and of Agra respectively by an order under the signature of the Secretary to Government in the Judicial Department

Administration of Criminal Justice finally transferred to the Judges.

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[1] Regulation XII of 1818. This is the existing limit of their powers.

[2] Regulation XV of 1824, which was re-enacted in an amended form by Act IV of 1840, the provisions of which were incorporated and still exist in the Code of Criminal Procedure—See Chapter XL, sections 530—535.

[3] Clause 2, section 5, Regulation I of 1829.

[4] Section 2, Regulation VII of 1831. One result of transferring the Sessions work to the Zillah and City Judges was that, in some heavy districts, they became unable to cope with the civil work: and the occasional appointment of Additional Judges was therefore provided for by Regulation VIII of 1833. Assistant Judgeships had been previously created by Regulation XLIX of 1803, and abolished by Regulation XXIV of 1814.

[5] Section 8, *id.*

to transfer any part, or the whole of the duties connected with criminal justice from any Commissioner of Circuit to any Sessions Judge, and to define the powers which should be exercised by each respectively.[1] What was intended to be meant by "duties connected with criminal justice" is not very clear, but that it did not include the hearing of appeals from Magistrates would appear from the fact that the power of receiving and trying appeals from the orders of the Zillah or City Magistrates or Joint-Magistrates, whether such orders were passed in a criminal trial or in any other judicial proceeding, was afterwards conferred on Sessions Judges in so many words by section 5, Act XXIV of 1837. It will thus appear that the jurisdiction of the Zillah and City Judges as Sessions Judges was created in a curiously indirect manner and depended upon four fragments of enactments, one of which required an order in Council in order to give effect to its provisions. In 1871, there was the gravest reason to believe that the requirements of the law had not been complied with, and an Act was passed to validate all previous appointments and provide for the future appointment of Sessions Judges and Additional Sessions Judges.[2] The powers and duties of Sessions Judges are now regulated by the provisions of the Code of Criminal Procedure,[3] which also provides for the appointment of Additional or Joint[4] Sessions Judges, and Assistant[5] Sessions Judges.[6]

Union, separation and reunion of the offices of Magistrate and Collector.

§ 216.—The union of the offices of Collector and Magistrate, which was effected in 1831, lasted for a few years only. A large amount of additional work was just at that time thrown upon Collectors by the resumption proceedings then undertaken and vigourously carried on: and the duties of the Magistrate's office were in consequence neglected. In 1837 the Governor-General, Lord Auckland, procured the sanction of the Court of Directors to the separation of the two offices, which was gradually effected in the course of the following eight years. In consequence of the small salaries allowed to the Magistrates,[7] the office fell into the hands of the junior and more inexperienced members of the Service, and the effect upon the administration of justice was what might naturally have been expected. After careful consideration and much discussion, the offices of Collector and Magistrate of the District were again united in 1859:[8] and the

[1] Act VII of 1835.

[2] Act XIX of 1871.

[3] Act X of 1872.

[4] Section 17, *id.*

[5] Section 18, *id.*

[6] The powers and duties of Zillah and City Judges as regards the administration of civil justice appear sufficiently from what precedes as to the Sádr Díwání Adálat and Provincial Courts of Appeal, and from what follows as to Native Judicial Officers.

[7] In Lower Bengal, of which especially I speak above, the Magistrate was paid Rs. 900 per mensem, while the Collector received Rs. 1,900 or 1,500 according to the grade to which he belonged.

[8] Dispatch No. 15 of 14th April 1859. Mr. J. Fitzjames Stephen, in his *Minute on the Administration of Justice in British India* (No. 89 of Selections from the Records of the Government of India, Home Department, 1872), was of opinion that the maintenance of the position of the District Officers (Collector-Magistrates) is essential to the maintenance of our rule; and that, in order to maintain their position, judicial power in criminal matters must be left in their hands. "The

arrangement has continued up to the present. The powers and duties of the Magistrate of the District and of other Magistrates (except the Police Magistrates of Calcutta) are now regulated by the Code of Criminal Procedure.

History of the Native Judicial Service subsequent to 1793.

§ 217.—The history of the Native Judicial Service[1] is one of great interest and, within the last few years especially, of remarkable progress. The provisions of Regulation XL of 1793[2] were extended to Benares in 1795.[3] The Judge of Chittagong was in 1797 empowered to refer to Native Commissioners, who were to be denominated *Commissioners of Land Suits*, cases for landed property, the annual value of which did not exceed, if malguzarí land, fifty sicca rupees; and, if lakhiráj, five sicca rupees. In dealing with these suits, the Commissioners were to be guided by the rules contained in Regulation XL of 1793, and by the further rule that in cases of inheritance of, or succession to, landed property, the Mahomadan laws with respect to Mahomadans, and the Hindú laws with regard to Hindús, were to regulate the decision.[4] Appeals lay from the decisions of the Native Commissioners to the Zillah or City Judges, who were in 1800 empowered to refer to their Registers such of these appeals as did not exceed twenty-five sicca rupees in value.[5]

Sádr Amíns first appointed in the Ceded Provinces—

§ 218.—Rules similar to those contained in Regulation XL of 1793 were enacted by Regulation XVI of 1803 for the provinces ceded by the Nawáb Vizier; and provision was at the same time made for the appointment of Head Native Commissioners, to be denominated *Sádr Amíns*, and who were to have jurisdiction to try, on reference by the Zillah or City Judge, suits for personal property not exceeding in value one hundred sicca rupees; or for the property or possession of land, the annual value of which did not

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exercise of criminal jurisdiction," he observes, "is, both in theory and in fact, the most distinctive and most easily and generally recognized mark of sovereign power. All the world over, the man who can punish is the ruler." I do not say that his view of what is expedient for India is wrong; but it may be well to consider that the District Magistrate does not in fact exercise this criminal jurisdiction. In the Lower Provinces, he has not leisure to do so, and its exercise in practice devolves upon the Joint-Magistrate. Again, the Nizámat or right to administer criminal justice was not given to us at first. and it remained in the hands of the Native Government, while we notwithstanding exercised the real sovereign power.

[1] In connection with what has gone before and with what follows, I may here refer to Regulation IX of 1833 by which the office of Deputy Collector, open to Natives of India of any class or religious persuasion, was created under the administration of Lord William Bentinck. In 1843 was passed an Act (XV) entitled "An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department," by which the office of Deputy Magistrate was created Under the provisions of these two enactments the services of Natives have been largely utilized. The number of persons holding the appointment of Deputy Magistrate and Deputy Collector in the Lower Provinces on salaries ranging from Rs 200 to Rs. 700 per mensem was, on the 1st April 1875, *one hundred and eighty-three*, of whom 38 bear European names, the rest being Natives.

[2] *Ante*, § 201. It will be remembered that the jurisdiction conferred by Regulation XL of 1793 extended only to suits for money and *personal* property up to the limit of 50 sicca rupees.

[3] Regulation XXXI of 1795.

[4] Regulation XVIII of 1797.

[5] Regulation III of 1800.

exceed, if *malguzari*, one hundred, and, if *lakhiraj*, twenty sicca rupees; or for any other description of real property, the computed value of which did not exceed one hundred sicca rupees. Their decisions were to be regulated in cases of inheritance of, or succession to, landed property, by the Mahomàdan law with respect to Mahomadans, and by the Hindú law with regard to Hindús.[1] Head Commissioners were to be nominated by the Judges and approved by the Sádr Díwání Adálat.[2] Native Commissioners, to be vested with the powers of Munsifs, were to be appointed in the same way. In making nominations to both offices, the Judges were not to be restricted to any particular class of persons, but were to be careful to select "persons of good character and known ability, as well as duly qualified by their education and past employments to discharge satisfactorily the trust reposed in them." The Native Commissioners or Munsifs so appointed were empowered to receive, try and determine all suits preferred to them against any native inhabitant of their respective jurisdictions for money or other personal property not exceeding in amount or value the sum of fifty sicca rupees, save and except claims for personal damages which were not to be cognizable by these officers. The local jurisdiction of the Munsif was to be the same as the Police jurisdiction in which he was empowered to officiate; and he was to hold his Court at the principal town, bazâr or ganj within such jurisdiction. These Sádr Amíns and Munsifs were not to be removed from their offices without sufficient cause proved to the satisfaction of the Sádr Díwání Adálat. Sádr Amíns were not to be appointed as a matter of course in all zillahs, but only in those districts in which there was pressure of work. These provisions applied only to the provinces ceded by the Nawáb Vizier: but similar provisions were made almost immediately after for Bengal, Bahár, Orissa and Benares by Regulation XLIX of 1803.

And in Bengal, Bahár, Orissa, and Benares, 1803.

§ 219.—In 1805, the Hindú and Mahomadan Law Officers were created Sádr Amíns by virtue of their offices; and the Sádr Díwání Adálat was empowered to appoint, in addition, two or more Sádr Amíns, when such course appeared expedient on consideration of the number of civil causes depending in a Zillah or City Court.[3] In 1810, Zillah and City Judges were empowered to refer appeals from Native Commissioners "for investigation and decision" to Sádr Amíns or Law Officers exercising the powers of Sádr Amíns.[4] In 1814, the law relating to Sádr Amíns and Munsifs was amended and consolidated by Regulation XXIII of that year. The Commissions empowering to act as referees and arbitrators were withdrawn, and Munsifs were not to admit new cases for arbitration except under the general rules of procedure then in force. Munsifs were now invested with jurisdiction to receive, try and determine all suits preferred to them against any native inhabitant of their jurisdictions for money or other personal property not exceeding in amount or value sixty-four sicca rupees, provided that the cause of action had arisen within one year previous to the institution of the suit, and that the claim

Sádr Amíns invested with Appellate Jurisdiction—1810.

Regulation XXIII of 1814.

[1] Clause 9, section 26, Regulation XVI of 1803.

[2] Clause 2, *id.*

[3] Regulation XV of 1805.

[4] Clause 2, section 9, Regulation XIII of 1810.

included the whole amount of the demand arising from the cause of action, and provided also that the suit was not for damages for alleged personal injuries. The Chittagong Munsifs were still vested with power to try suits for landed property, the limits of this jurisdiction being extended to sixty-four sicca rupees.[1] Munsifs were now for the first time empowered to impose fines for contempt of Court. They were not however to realize fines so imposed, but were to report them to the Judge, who might remit, modify or confirm them. Munsifs were still prohibited from executing their own decrees, which were to be executed from the Judge's Court. They were to furnish copies of their decrees to the parties who were at liberty to appeal to the Judge within thirty days computed from the date of the copy being furnished or tendered.[2] Judges were empowered to employ Munsifs in the investigation of questions respecting local rights and usages; in giving possession of real property under decrees; in the sale of personal property in execution; in ascertaining the sufficiency of securities and the indigence or otherwise of persons suing *in formâ pauperis*.[3] The approval of persons nominated by the Zillah and City Judges to the offices of Sádr Amín and Munsif was transferred from the Sádr Díwání Adálat to the Provincial Courts.

Amendment of the Law.

New Jurisdiction of Munsifs.

Miscellaneous Duties performable by Munsifs.

§ 220.—The Hindú and Mahomadan Law Officers were still to be *ex-officio* Sádr Amíns: and the Judge was generally to refer cases involving Hindú law to the Hindú Law Officer, and cases involving Mahomadan law to the Mahomadan Law Officer. The original jurisdiction of Sádr Amíns was extended to suits for money or other personal property not

Provisions of Regulation XXIII of 1814, as to the Jurisdiction of Sádr Amíns—Original,

[1] This special jurisdiction was given to Munsifs in the Chittagong district in consequence of landed property being "for the most part distributed into very small portions, amongst the numerous proprietors of which and their tenants so many disputes continually" arose "regarding the property or boundaries of their respective tenures that the unremitting assiduity of the Zillah Judge and his Register" had "been found insufficient to bring them to an early trial and decision"—Preamble to Regulation XVIII of 1797. The same state of things still continues, as the Author knows from his experience of the district.

[2] The date of furnishing or tendering was to be endorsed on the copy, and Munsifs falsifying or misstating this date with the view of defeating the right of appeal were to be dismissed and fined. Judges were empowered to impose upon Munsifs fines not exceeding twenty rupees for misconduct or neglect of duty not requiring suspension or dismissal. It was further considered necessary strictly to prohibit Munsifs from maltreating witnesses, or allowing the parties or their agents to instruct or intimidate them. Leading questions or questions suggesting a particular answer were generally forbidden. No distinction was drawn between examination-in-chief and cross-examination — and questions with regard to the *personal character* of the parties were to be *avoided as much as possible*. There are many similar curiosities of legislation to be found throughout the Regulations, which, it will be remembered, were drawn by unprofessional hands. For the scientific mode of dealing with the evil, against which the last provision was directed, see sections 148—150 of the Evidence Act, and the remarks at pages 486-487 of the Author's *Law of Evidence in British India*.

[3] Munsifs were also employed to sell property distrained for rent. The above duties were afterwards generally transferred to the Amíns appointed under Act XII of 1856. Even in 1814 Amíns were employed; and Judges were directed to resort to their employment, when the result of occupying the Munsifs too much with the above miscellaneous duties would be to interfere materially with the early decision of suits.

exceeding *one hundred and fifty* sicca rupees in amount or value, or for the property or possession of land or other real property up to the same amount calculated according to the Stamp Law then in force.[1] The Judges were authorized to refer to Sádr Amíns such appeals from the decisions of Munsifs as they were themselves unable to try and determine with sufficient dispatch. The decisions of the Sádr Amíns on appeal were final unless the Judges saw fit to admit a special appeal. Whenever, in the trial of regular suits by the Zillah or City Judges or in miscellaneous cases, the *adjustment* of accounts regarding the execution of decrees, and mercantile or revenue transactions, or the *investigation* of disputes between landlord and tenant or of other special matters of account, fact or usage was requisite, Judges, in order to save their own time, were authorized to direct such adjustment or investigation to be made by any Sádr Amín subordinate to them.[2]

And Appellate.

§ 221.—The increase in the work of the Courts during the seven years which followed these changes rendered further measures necessary in order to relieve the Zillah and City Judges. Provision was accordingly made in 1821 for increasing the number of Munsifs, one for each thanah not being found sufficient. At the same time the monetary limits of the jurisdiction of Munsifs was raised to *one hundred and fifty* rupees, and that of Sádr Amíns to *five hundred* rupees.[3] Judges were also empowered to refer to their Registers and Sádr Amíns applications for the execution of decrees of Sádr Amíns and Munsifs. Further relief was given in the same year by empowering the Judges in their capacity of Magistrates to refer petty criminal cases to the Law Officers and Sádr Amíns.[4] The original jurisdiction of Sádr Amíns was further raised to *one thousand* rupees in 1827, and they were for the first time empowered to hear cases in which British European subjects, European foreigners or Americans were parties.[5]

Further Extension of Jurisdiction in 1821—

And in 1827.

§ 222.—The law relating to Native Judicial Officers, in common with the other portions of the law of the judiciary system, underwent important changes in 1831. The jurisdiction of Munsifs was now extended to suits for the property or possession of land or other real property with the exception of land held exempt from the payment of revenue:[6] and the monetary limit of all suits cognizable by them was raised to *three hundred* rupees. The special rules applicable to Chittagong Munsifs were repealed; and, instead thereof, it was generally provided for the guidance of all Munsifs that in cases of inheritance of, and succession to, landed property, the Mahomadan law with respect to Mahomadans, and the Hindú law with regard to Hindús, should regulate the decision Where the parties were of different religious persuasions, the decision was to be regulated

Important changes in 1831.

Munsifs' Jurisdiction extended to real property, and otherwise enlarged.

[1] Section 14, Regulation I of 1814.

[2] Taken *verbatim* from clause 1, section 76, Regulation XXIII of 1814.

[3] Sections 2, 3, and 5 of Regulation II of 1821.

[4] Sections 3 and 4 of Regulation III of 1821.

[5] Regulation IV of 1827. The power to hear those suits was however again taken away by clause 2, section 15, Regulation V of 1831, but restored by Act XI of 1836.

[6] The prohibition against trying suits for damages on account of personal injuries still however continued. See proviso to clause 2, section 5, Regulation V of 1831, which was not repealed till thirty years after, when it was repealed by Act X of 1861.

by the law of the defendant, but only in cases in which the defendant was a Hindú or a Mahomadan. In cases in which these rules could not apply, the Munsifs were to act according to justice, equity and good conscience. Suits cognizable by Munsifs were ordinarily to be instituted in their Courts, but Judges might receive and refer such suits. Munsifs were now allowed to receive applications for the execution of their own decrees; but were to forward them to the Judge, who might direct them to execute them, or have them executed by his own officers. Munsifs were no longer to be paid by fees, but by salaries fixed by the Governor-General in Council.[1]

Alteration in the law as to Sádr Amíns.

§ 223.—The abolition of the Provincial Courts, the Judges of which had appointed the Sádr Amíns and Munsifs on the nomination of the Zillah and City Judges, rendered other provisions necessary for the exercise of this patronage, and it was enacted that its exercise should henceforth be regulated in such manner as the Governor-General in Council might be pleased to direct.[2] The Law Officers of the Zillah and City Courts were no longer to be *ex-officio* Sádr Amíns, but were to be, like other individuals, eligible to the office. Judges were not in future to transfer Munsifi appeals to Sádr Amíns for hearing. The office of Sádr Amín was thus somewhat reduced in importance; but this was compensated by the creation of a new office, that of Principal Sádr Amín, which (together with that of Munsif and Sádr Amín) was declared to be open to natives of India of any class or religious persuasion.[3] Appointments to the office were to be made by the Governor-General, who was also to fix the monthly allowances of those appointed. Principal Sádr Amíns were vested with original jurisdiction in suits for money or personal property, or for the property or possession of land or other real property, the amount or value[4] of which did not exceed *five thousand* rupees.[5] Judges retaining such cases on their own files were to record their reasons for doing so. Principal Sádr Amíns were empowered to execute their own decrees, an appeal lying to the Judge from their orders passed in execution proceedings. When a Judge's file was so heavy that it was impracticable for him to dispose of all the pending appeals with reasonable dispatch, he was to report to the Sádr Díwání Adálat, who might authorize him to refer a specified number of appeals to his Principal Sádr Amín. The petty criminal jurisdiction given to Sádr Amíns by section 3, Regulation III of 1821, was conferred on Principal Sádr Amíns also: and Magistrates were empowered to refer to both officers for investigation criminal cases beyond their jurisdiction to try. These officers were not however authorized to commit to the Sessions. A Judge was empowered upon urgent necessity to suspend a Principal Sádr Amín, Sádr Amín or Munsif. When the Commissioner and the Judge

Office of Principal Sádr Amín created—

His Jurisdiction—Original,

And Appellate.

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[1] Sections 5, 6, 7, 11, and 12 of Regulation V of 1831.

[2] Sections 13, 14, and 16, *id.*

[3] Act VIII of 1836 further declares that no person should be, by reason of place of birth or by reason of descent, incapable of holding these offices.

[4] Calculated according to the rules in No. 8, Schedule B, referred to in section 17, Regulation X of 1829.

[5] Sections 17 and 18 of Regulation V of 1831.

differed as to the propriety of removing any of them, they were both to send their opinions to the Sádr Díwání Adálat. The Commissioner might recommend a removal, when the Judge did not take the initiative. Principal Sádr Amíns and Sádr Amíns could not be removed from office without the sanction of the Governor-General. Munsifs could be removed by the Sádr Díwání Adálat.[1]

§ 224.—By Act XXV of 1837, Judges were empowered to refer to Principal Sádr Amíns original suits of any amount or value: and they were further authorized with the sanction of the Sádr Díwání Adálat to refer any civil proceedings, miscellaneous or summary.[2] Orders passed by Principal Sádr Amíns in such proceedings were first appealable to the Judge, and then specially to the Sádr Díwání Adálat. Decrees in original cases up to five thousand rupees were first appealable to the Judge, and then specially to the Sádr Díwání Adálat.[3] Decrees in suits above this amount were appealable direct to the Sádr Díwání Adálat.[4] In 1845 Munsifs were relieved of performing the duties of Nazirs, and were authorized to appoint Nazirs on their establishments.[5] In 1847 the rule empowering Judges to fine Munsifs and Sádr Amíns was repealed,[6] as no longer adopted to these officers "in the more elevated judicial position" then occupied by them. In 1852 the rules of procedure for the trial of original civil suits in the Courts of Judges and Principal Sádr Amíns were extended in their entirety to the Courts of Sádr Amíns and Munsifs, who were also for the first time empowered to try suits in which vakíls or officers of their Courts were parties.[7] In 1868, the law relating to Native Judges in the Lower and North-Western Provinces was again amended and consolidated by Act XVI of that year. The principal changes made by this Act were that the office of Sádr Amín was abolished; the designation of "Subordinate Judge" was substituted for that of "Principal Sádr Amín;" and the jurisdiction of Munsifs was extended to all original suits cognizable by the Civil Courts of which the subject-matter does not exceed in amount or value *one thousand* rupees. Act XVI of 1868 was amended by Act II of 1870, and both these Acts were repealed by *The Bengal Civil*

Jurisdiction of Principal Sádr Amíns enlarged.

Act XVI of 1868. Sádr Amíns abolished. Subordinate Judges substituted for Principal Sádr Amíns. Jurisdiction of Munsifs enlarged.

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[1] Section 16, Regulation V of 1831. See, for the existing law, sections 31—34, Act VI of 1871. A Subordinate Judge can be removed only by Government; but the High Court can suspend him, when it sees urgent necessity for so doing. A Munsif may be removed by the Government or the High Court: and may be suspended by the High Court, or, when he sees urgent necessity, by the District Judge. The English Committee of the High Court may remove a Munsif, and a Division Branch cannot re-consider, review or set aside their order—*In the matter of the petition of Harish Chandra Mittra*, X B. L. R. 79; nor has the Judicial Committee of the Privy Council jurisdiction to interfere—*In the matter of Sri Mohan Ghatak*, XIII Moo. Ind. Ap. 343. Subordinate Judges are now appointed by Government. Munsifs are nominated by the High Court and appointed by Government—sections 5-6, *id.*

[2] See now section 27, Act VI of 1871.

[3] See now section 28, *id.*

[4] This is still the law, see section 22, *id.*

[5] Act XIV of 1845.

[6] Act XII of 1847.

[7] Act XXVI of 1852.

Courts Act, VI of 1871, which has finally amended and consolidated the law relating to the District and Subordinate Civil Courts in the territories respectively under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal.

Act XVI of 1868—Preamble.

§ 225.—We have seen that, up to 1793, all questions between Government and the landholders respecting the assessment and collection of the public revenue and disputed claims between the latter and their raiyats, or other persons concerned in the collection of their rents, were cognizable in the Courts of Mâl Adálat or Revenue Courts :[1] and that, in that year, jurisdiction in this class of cases was transferred to the Civil Courts, which were empowered to take cognizance of suits relating to "land-rents" and "revenues."[2] In the following year it was enacted that in causes concerning rent or revenue or other matters previously cognizable in the Courts of Mâl Adálat between proprietors of lands or farmers holding immediately of Government, and their dependent talúkdárs, under-farmers or raiyats; or between dependent talúkdárs and their under-farmers or raiyats; or between other persons concerned in the collection or payment of land-rents or revenues either as principals or sureties, the Judge might refer to the Collector for his report any accounts, the adjustment of which might be necessary towards the decision of the suit. On receipt of the Collector's report, the Judge might either confirm, set aside or alter his adjustment of the accounts, or pass such decision respecting them as might to him appear proper.[3] The Civil Courts were directed by Section 34 of Regulation XVII of 1793 to try all suits connected with the exercise of the powers of distraint conferred by that Regulation, previous to any other suits. They were further directed by section 22, Regulation III of 1794 to appropriate one or two or, if necessary, more days for the trial of suits relating to rent or revenue. The strictest observance of these rules was required by section 13, Regulation VII of 1799. Under the provisions of section 15 of the same Regulation, proprietors and farmers were empowered to arrest persons from whom arrears of rent were due which could not be realized by distraint; or they might petition the Zillah Judge for their arrest. If the defaulter, on being arrested, denied the arrear or any part of it, the Judge was to enter upon a *summary enquiry* into the merits of the demand by examining the vouchers and accounts of the parties, or he might refer the case to the Collector for adjustment and report. The summary judgment passed by the Judge, after completing his own enquiry or upon the report of the Collector, was not open to appeal, but persons considering themselves aggrieved thereby might institute a regular suit in the Civil Court to contest the result.[4]

History of Jurisdiction in Rent Cases.

Summary Suits by Landlords—Referrible to Collectors.

§ 226.—The law of summary suits was somewhat modified in favor of the raiyats by Regulation V of 1812, which provided that, when a tenant disputed the justice of

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[1] Preamble to Regulation II of 1793.

[2] Section 8, Regulation III of 1793.

[3] Section 13, Regulation VIII of 1794, not repealed until the passing of Act VIII of 1868.

[4] Sections 17 and 18, Regulation VII of 1799.

his landlord's claim enforced by distraint, and gave security to contest such claim by suit in the Civil Court, the distraint was to be withdrawn. Persons unable to give security in time to save their property from sale were declared entitled to sue afterwards to contest the claim of rent, and to recover damages for the sale of their property. All suits instituted under these provisions were directed to be referred as soon as instituted to the Collectors for their report, and were to be decided on a summary enquiry under the provisions contained in Regulation VII of 1799.[1] A strict adherence to this rule was however found to retard instead of expedite the decision of these cases; and therefore, in 1817, Judges were declared to be at liberty either to refer such suits to the Collectors, or themselves investigate them, or refer them for investigation to their Registers.[2] Collectors were empowered in 1824 to hear, investigate and *determine* summary suits referred to them by the Judges, to whom they were however to notify their decisions and return the records.[3] Finally in 1831, such parts of the Regulations[4] then in force as authorized Judges of the Zillah or City Courts to take cognizance of summary suits relating to arrears or exactions of rent, and to refer the same to the Collector for investigation and decision were repealed; and it was enacted that such summary suits were to be preferred in the first instance to the Collectors of land-revenue, whose decisions were to be final, subject to being contested in a regular suit in the Civil Court.[5] If it were brought to the Collector's notice that a regular suit had been instituted in the Judge's Court respecting any matter pending before him in a summary suit, he was to suspend proceedings and forward the record of the case to the Judge.

Reg. V of 1812—Summary Suits by Raiyats.

Collectors empowered to decide summary Suits referred to them.

Reg. VII of 1831 Summary Suits to be preferred to Collectors.

§ 227.—In 1859 the jurisdiction of the Civil Courts was wholly taken away,[6] and an exclusive jurisdiction given to the Collector's Courts in the following cases, *viz.:* (1) suits for pattas and kabuliyats, and the determination of the rates of rent to be therein inserted; (2) suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress; (3) complaints of excessive demand of rent and claims to abatement of rent; (4) suits for arrears of rent due on account of land either *kherají* or *lakhiráj*, or on account of any rights of pasturage, forest rights, fisheries, or the like; (5) suits to eject raiyats or cancel leases for non-payment of rent or breach of contract; (6) suits to recover the occupancy or possession of any land, farm or tenure from which a raiyat, farmer or tenant had been ejected by the

Act X of 1859—Exclusive Jurisdiction in Rent Cases given to the Collectors' Courts.

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[1] Sections 20 and 21 of Regulation V of 1812.

[2] Section 13, Regulation XIX of 1817; and see section 9, Regulation II of 1821.

[3] Sections 3 and 4, Regulation XIV of 1824.

[4] The following Regulations are expressly referred to, *viz.:*—VII of 1799, V of 1800, XVIII of 1803, V of 1812, VII of 1813, XIX of 1817, and XIV of 1824.

[5] Sections 4 and 5, Regulation VIII of 1831. An appeal lay to the Commissioner on the ground of the irrelevancy of the Regulation to the particular case. Assistants were competant to try summary cases, if specially empowered.

[6] By Act X of 1859, section 1 of which repeals the law previously in force, which may be fully gathered from this section.

person entitled to the rent thereof; and (7) suits arising out of the exercise of the powers of distraint conferred by the Act. These provisions were objected to by high authority[1] on the ground that the jurisdiction of the regular Civil Courts was excluded in suits, which might involve difficult questions of law and fact, with which such Courts were more competent to deal than the Collectors' Courts to which they were transferred. The soundness of these objections was proved by experience of the working of the Act in the Lower Provinces: and just ten years afterwards the jurisdiction taken away in 1859 was restored to the Civil Courts in those provinces by Act VIII of 1869 of the Bengal Council.[2] In the North-Western Provinces the Revenue Courts still continue to exercise an exclusive jurisdiction in cases of rent and revenue.[3]

But restored to the Civil Courts in the Lower Provinces ten years after.

§ 228.—The jurisdiction of the Mofussil Courts, Civil and Criminal, in respect of European British subjects, has been from time to time the source of much discussion and has undergone considerable changes. In 1793 European British subjects were amenable to the Supreme Court alone for Acts which rendered them liable to a criminal prosecution; and it was made the duty of Magistrates to enquire into charges against them and apprehend them if necessary. If the charge appeared proved in any particular case, the Magistrate was *to convey the offender under safe custody to one of the Judges of the Supreme Court*,[4] reporting the circumstances for the information of the Nizámat Adálat. Europeans not British subjects were amenable, equally with natives, to the authority of the Magistrates and Courts of Circuit.[5] The 33 Geo. III, cap. 52, empowered the Governor-General in Council by Commissions under the seal of the Supreme Court to appoint Covenanted Servants or other British inhabitants to be Justices of the Peace: and accordingly Regulation II of 1796[6] was passed to provide rules for the *commitment* of European British subjects to the Supreme Court by Magistrates, who had taken the oaths as Justices of the Peace. In order to take the oaths it was necessary to come down to the Presidency and appear before the Supreme Court; but it was afterwards enacted that the oaths might be taken before any Civil or Criminal Court, even though the officer

Criminal Jurisdiction in respect of European British subjects.

33 Geo. III, cap. 52.

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[1] Sir Charles Jackson and Mr. (now Sir Barnes) Peacock, afterwards Chief Justice of the Calcutta Supreme, and High Court, and now one of the Judges of Her Majesty's Most Honorable Privy Council.

[2] Act VIII (B.C.) of 1869 has operation only in those districts to which it has been extended under the provisions of section 106. It has however been extended to all districts except those in Orissa—See Notification of 24th February 1870, published in the *Calcutta Gazette* of 2nd March 1870.

[3] See section 93 of the North-Western Provinces Rent Act, XVIII of 1873. It must be borne in mind that Revenue Officers in these provinces, by reason of settlement experience and for other causes, are very much more qualified to deal with such cases, than Revenue Officers in the Lower Provinces.

[4] Not being Justices of the Peace, Magistrates had at that time no power to commit.

[5] Section 19, Regulation IX of 1793: clause 1, section 2, Regulation II of 1796.

[6] In the Preamble to this Regulation in all the copies that I have examined, the 21 Geo. III, cap. 65, is quoted, doubtless by mistake for 33 Geo. III, cap. 52.

therein presiding was not a Justice of the Peace.[1] By the 53 Geo. III, cap. 155, section 105, Magistrates of Districts[2] were empowered to try cases of assault, forcible entry or other injury accompanied by force not being felony, committed by British subjects on natives outside the Presidency towns and, in case of conviction, to inflict a fine not exceeding five hundred rupees. In default of payment or levy of the fine, the offender might be committed to gaol for a period not exceeding two months. The fine or any portion of it might be paid as compensation to the aggrieved person. Convictions were removable by *certiorari* into the Courts of Oyer and Terminer and Gaol Delivery.

53 Geo. III, cap. 155, s. 105.

§ 229.—Act IV of 1843—reciting that there were many offences, which Mofussil Magistrates might take cognizance of either in their magisterial capacity under the Regulations, or as Justices of the Peace; that the appeal from their convictions in each capacity was subject to different rules; and that the law of appeals from convictions under the 53 Geo. III, cap. 155, required amendment—enacted that an appeal from sentences passed by Justices of the Peace should lie to the same authority and under the same rules as appeals from sentences passed by Magistrates, and that cases so appealed should not be liable to revision by writ of *certiorari*, which might however be obtained in cases in which no such appeal had been had. Act VII of 1853 extended the provisions of the 53 Geo. III, cap. 155, section 105, and of Act IV of 1843 to cases of assault, forcible entry and other injuries not being felonies committed by any British subject or other person against the person or property *of any person whatever*.[3] The first Code of Criminal Procedure enacted that no person not a Justice of the Peace should commit or hold to bail an European British subject to take his trial before the Supreme Court. Magistrates not Justices might however arrest or hold to bail such persons with a view to the complaint being investigated by a Justice of the Peace.[4] European British subjects are amenable to the provisions of the new Code of Criminal Procedure in all matters except giving security for good behaviour; and offences committed by them are to be enquired into and tried according to the provisions of Chapter VII of the Code, and not otherwise. Magistrates who are Magistrates of the First Class, Justices of the Peace and European British subjects, may inquire into complaints of any offence

Act IV of 1843.

Act VII of 1853.

Provisions of the Code of Criminal Procedure.

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[1] 53 Geo. III, cap. 155, section 112, and Act XVI of 1841. No oath is now necessary—see section 16, Act X of 1873. Further provision for the mode of proceeding in the case of European British subjects was made by Regulation XV of 1806.

[2] Justices of the Peace do not appear to have very generally exercised judicial powers as such in the mofussil. They acted rather as Conservators of the Peace. The usual commission in England appoints them all jointly and severally to keep the peace in the county, and any two or more of them to inquire of and determine felonies and other misdemeanours in such county committed. Acts IV of 1835 and XXXII of 1838 were passed to empower one Justice to exercise in Calcutta, Bengal, Bahár and Orissa, the powers formerly appertaining to two Justices. The law relating to the appointment of Justices of the Peace was amended and consolidated by Act II of 1869, which contains the existing law on the subject.

[3] The Preamble recites that Natives of India, resident in the East Indies, might be unable to obtain redress *by reason of their inability to prove their place of birth.*

[4] Sections 39—42 of Act XXV of 1861.

made against European British subjects; and in the case of offences which they are competent to try may pass a sentence not exceeding three months' imprisonment, or fine up to one thousand rupees, or both. An appeal from such sentences lies either to the Court of Session or the High Court. In the case of offences other than those punishable with death or transportation for life (in which cases, the commitment must be to the High Court), European British subjects may be committed to the Court of Session; and Sessions Judges, being European British subjects, may pass a sentence not exceeding one year's imprisonment, or fine, or both.[1] An appeal from such sentences lies to the High Court.

Residence in India of British Subjects not in the Service of the Crown or Company.

§ 230.—Previous to 1833 British subjects, not in the service of the Crown or of the Company, were not allowed to reside in India more than ten miles from a Presidency Town without a licence.[2] In that year it was enacted by the 3 and 4 Wm. IV, cap. 85, ss. 81, 82, and 83, that natural-born subjects of the Crown might proceed *by sea* to any port or place having a Custom-house establishment within the territories of the Company and reside thereat, and proceed to, reside in or pass through any part of such of the said territories as were under the Company's Government in the year 1800, or in any part of the countries ceded by the Nawáb of the Carnatic, of the Provinces of Cuttack, and of the Settlements of Singapore and Malacca, without any licence whatever, provided that on their arrival in any part of such territories from any port or place not within such territories, they were to make known in writing their names, places of destination and objects of pursuit in India to the Chief Officer of Customs or other authorized Officer. Such natural-born subjects were not however to enter these territories by land, or proceed to or reside at any place in the other territories not above mentioned without a

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[1] See sections 11, 71—88, 197, 274, 406, 435, 436, and 438 of Act X of 1872. "European British subjects" are defined by section 91. Several Acts had been passed by the Local Legislatures of Bengal, Madras and Bombay, purporting to apply generally to all persons; and, doubts having arisen as to the validity of the conviction and punishment of European British subjects thereunder, Act XXII of 1870 was passed to confirm such Acts and validate what had been done under them. This Act further provided that Acts of the Governor-General in Council, conferring summary jurisdiction over offences, shall be deemed to apply to European British subjects, though not expressly mentioned therein. The Statute 34 and 35 Vic. Cap. 34 (29th June 1871) confirmed this Act, and gave the Local Legislatures power to confer jurisdiction over European British subjects on Magistrates being Justices of the Peace in all cases in which they can confer jurisdiction over natives.

[2] The power of excluding "interlopers" was granted by the Charter of Queen Elizabeth and was acknowledged by various statutes—see 53 Geo. III, cap. 155, ss. 36, 37, 38, 39, 107, 108. Section 107 required British subjects allowed to reside more than ten miles from the Presidency to procure and deposit the certificate of such permission in the Civil Court of the district in which they were allowed to take up their residence. They were not allowed to hold land in the Mofussil—see sections 17 and 46 of Regulation II of 1793; section 17, Regulation V of 1795; Regulations XXXVIII of 1793, XLVIII of 1795, and XIX of 1803; and clause 1, section 17, Regulation VIII of 1805. Act IV of 1837 enacted that it should be lawful for any subject of the Crown to acquire and hold in perpetuity, or for any term of years, property in land or in any emoluments issuing out of land in any part of the territories of the East India Company, subject however to all rules which prescribe the manner in which such property shall be acquired and held by Natives.

licence: but the Governor-General in Council, with the previous consent of the Court of Directors, was authorized to declare other places open for residence without licence to natural-born subjects of the Crown.

§ 231.—British subjects residing within the Company's territories were subject to all rules and regulations in force therein;[1] and residing, trading, or holding immovable property at a distance of more than ten miles from the Presidencies, they were declared amenable to the Company's Courts in civil suits brought against them by natives. They had however a right of appeal to the Supreme Court in cases where an appeal would otherwise have lain to the Sádr Díwání Adálat.[2] In 1827 Sádr Amíns were allowed to try suits otherwise within their jurisdiction in which British European subjects, European foreigners or Americans were parties.[3] This power was however withdrawn in 1831.[4] Finally in 1836 the above special right of appeal to the Supreme Court was taken away, and it was enacted that no person whatever should, by reason of place of birth, or by reason of descent be, in any civil proceeding whatever, excepted from the jurisdiction of the Courts of Sádr Díwání Adálat, of the Zillah and City Judges, of the Principal Sádr Amíns and the Sádr Amíns in the territories subject to the Presidency of Fort William in Bengal.[5]

Jurisdiction of the Civil Courts in respect of British Subjects.

§ 232.—By the first Judicial Regulation passed on the 21st August 1772, the custom of levying *chauth*, *dassatra*, *pachattra*[6] or any other fee or commission on the money recovered by means of the Courts, or *itlak*[7] on the decision of causes was absolutely and for ever[8] abolished. It was however soon discovered that it was possible to make

Court Fees—History of the Law relating to—

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[1] See 53 Geo. III, cap. 155, s. 35.

[2] *Id.* s. 107.

[3] Regulation IV of 1827.

[4] Clause 2, section 15, Regulation V of 1831.

[5] Act XI of 1836.

[6] A fourth part, tenth part, fifth part, respectively, of the property recovered.

[7] Literally "liberating," "setting free," but applied to the office for summonses, fees on their delivery, fees paid by suitors on the decision of their causes.

[8] The Indian Legislators of those days were very fond of binding posterity. It must however be borne in mind that the members of the Company's Government were new to legislation and state-craft. *Smith's Wealth of Nations* was not published until 1776, four years after the date of the above Regulation. Dr. Smith, though averse to making the Administration of Justice a source of revenue beyond the actual cost to the State of the necessary tribunals, was of opinion that this cost might be fairly defrayed by fees of Court. Later Political Economists have however contended that even to this extent a tax on justice is indefensible. Those who defend the tax to this extent argue that they may fairly be required to bear the expenses of the Administration of Justice, who reap the benefit—*Qui sentit commodum sentire debet et onus*. But Bentham replied that they who have to go to law are the very persons who do not reap the benefit of good government, since the protection afforded by the law is so incomplete that they have to resort to the Courts to maintain their rights against infringement—the benefit is really reaped by those who enjoy such complete immunity from injury that they have never to resort to the Courts. It may however be said that as, in theory at least, the wrong doer pays those fees in the end, the Courts are really supported by fines inflicted on wrong-doers. In India these fees are all recoverable from the wrong-doer, when

justice too cheap; and that the result of abolishing all fees was to encourage groundless and litigious suits. Accordingly, by Regulation XXXVIII of 1795, fees were imposed on the *institution and trial* of suits as "the best mode of putting a stop to the abuse of the ready means afforded to individuals of availing themselves of the exercise of the laws, without obstructing the bringing forward of just claims." The institution fees in cases tried by Registers and Native Commissioners were paid to them "as a compensation for their trouble, and an indemnification for the expense which they may incur in the execution of the duties of their office." Fees in other cases and in appeals were to be carried to credit of Government. The provisions of this Regulation were partly superseded by Regulation VI of 1797[1] which provided a new scale of fees on the institution and trial of suits, and also provided for levying a stamp duty on certain law and other papers and documents and a percentage on the fees of pleaders. A "Superintendent of the Stamps" was now appointed at Calcutta for the issue of "stampt" paper and for keeping the accounts of the same, and was made subordinate to the Board of Revenue. Similar provisions were made for the Ceded Provinces by Regulation XLIII of 1803, which also provided for petty complaints to the Magistrates being on "stampt" paper "in order to discourage the numerous petty complaints liable to be preferred from litigious or other improper motives."

Stamp Fees on Documents—Percentage on Pleaders' Fees.

§ 233.—The law for levying Judicial or Court Fees, and the law for imposing a stamp duty on written instruments were still further mixed together in Regulation I of 1814,[2] which first provided for the levy of Court fees by stamps. It was repealed by the consolidating and amending Regulation, X of 1829. This last Regulation was amended by Act XLI of 1858, and was repealed by Act XXXVI of 1860. The rule requiring a stamp upon petitions of complaint in petty criminal cases, first enacted in section 23, Regulation XLIII of 1803, was continued and extended in Regulations I of 1814[3] and X of 1829.[4] But Act XXXVI of 1860 exempted from stamp duty "all petitions, applications, charges, and informations respecting crimes and offences."[5] Act XXXVI of 1860

Mixture of the Law relating to Court Fees and Stamp Duty.

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he is able to pay them. When he is not, the person who seeks redress is the loser, and here the incidence of the tax is unfair. The Mahomadan system was free from this defect, as the fee was deducted only from the property recovered by the Court. It may be added that the utility of the imposition of Court-fees in repressing idle and harassing litigation has always been admitted and acted upon in India; but has not been much, if at all, considered in England. The attempt to make justice free of cost has been tried in India, and has not succeeded. It has never been tried in England, and there is no reason to think that the experiment would succeed there, if tried.

[1] This Regulation repealed the Police Tax; and the Preamble expressly states that, in order to make up the consequent diminution of revenue, the fees on the institution and trial of suits were increased, and the stamp duties imposed.

[2] The Preamble to this Regulation also recites the policy of raising a revenue for the support of the state by means of stamps on ..... instruments and on pleadings filed in the Courts of Judicature.

[3] Section 18.

[4] Para. 7, Schedule B. No stamp was required for complaints of non-bailable offences.

[5] Para. 5, Schedule B.

was repealed by Act X of 1862, which further amended and consolidated the law relating to Court fees and stamp duties, and also retained the particular exemption just noticed. This latter Act was amended by Act XXVI of 1867, which generally increased the scale of Court fees, and again imposed a fee upon petitions or applications presented to Criminal Courts, and containing complaints "of the offence of wrongful confinement or wrongful restraint, or of any offence other than an offence for which Police Officers may arrest without warrant, as specified in column 3 of the Schedule annexed to the Code of Criminal Procedure." Finally, the law relating to the imposition of stamp duties on instruments and the law relating to the levy of fees in Courts of justice were separated—the former being incorporated in "The General Stamp Act," XVIII of 1869; and the latter being reproduced in "The Court Fees Act," VII of 1870, amended by Act XX of 1870.[1]

Re-imposition of a stamp on Criminal Complaints.

Division of the Law into "The General Stamp Act," and "The Court Fees Act."

§ 234.—The law appertaining to the Courts of justice is either "*Substantive*" or "*Adjective*;[2] and the law falling under each of these heads may again be considered with reference to (1) the Civil Courts, and (2) the Criminal Courts. The first rule of substantive civil law for the Courts in the mofussil is to be found in the 23rd section of the Judicial Regulations of the 21st August 1772, which directs that "in all suits regarding inheritance, marriage, caste, and other religious usages or institutions, the laws of the Koran with respect to Mahomadans, and those of the Shaster with respect to Gentoos,[3] shall be invariably adhered to." For cases not falling within this rule, no provision was made. The same rule in the same words was repeated in the Judicial Regulations of the 11th April 1780; but the omission was now repaired by directing that the Superintendent of the Díwání Adálat should, "in all points which have not been expressly provided for by these Regulations, act discretionally, and according to the best of his judgment" (42nd section). In the Regulations of the 5th July 1781,[4] the rule as to Mahomadans and Gentoos was still retained:[5] but cases outside this rule were now provided for by directing that, "in all cases for which no specific directions are hereby given, the Judges do act according to

Substantive Civil Law.

Provisions of the Regulations prior to 1793.

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[1] In addition to the Regulations and Acts noticed above, the following may be mentioned as connected with this subject, *viz.*:—Regulation LX of 1795, extending Regulation XXXVIII of 1795 to Benares: sections 7 and 8, Regulation V of 1798: section 3, Regulation III of 1800: section 27, Regulation VIII of 1805, extending Regulation XLIII to the Conquered Provinces and Bundlekund: section 70, Regulation XXIII of 1814: section 9, Regulation XXIV of 1814: section 13, Regulation II of 1821: Regulation XVI of 1824: clause 1, section 12, Regulation V of 1831 (Munsifs no longer to be paid by fees): Acts XL and LI of 1860: Acts XX and XXIV of 1862, and XXXII of 1863, relating to the Calcutta High Court; and Acts XVIII of 1865 and XV of 1868.

[2] Mr. Bentham used the phrase "*Substantive law*" to designate that law which the Courts are established to administer as contradistinguished from the rules by which it is administered. These last, or the rules of procedure or practice, he termed "*Adjective law*."

[3] *Gentoo* derived from the Portuguese *gentio* = "a gentile" or "heathen" came to mean "a native of India," "a Hindú."

[4] Drawn up by Sir Elijah Impey. See *ante*.

[5] With the addition of "succession" before "inheritance." See the observations on the addition of this word in *The Secretary of State* v. *The Administrator-General of Bengal*, I B. L. R. Or. Civ. 106.

justice, equity and good conscience."[1] In the Regulations of the 27th June 1787 no change was made, except that the rule as to the applicability of Hindú and Mahomadan law was amended by the addition of the following words:—"But that in cases of succession to *Zemindáris*, *Talukdáris* and *Chaudhrais*, the Judge do also ascertain whether they have been regulated by any general usage of the pargana where the disputed land is situated, or by any particular usage of the family suing, and do consider in his decision the weight due to the evidence on this head."[2]

Provisions of Substantive Civil law in the Regulations of 1793.

§ 235.—This two-fold rule of substantive civil law was reproduced in the Regulations of 1793[3]—section 15 of Regulation IV of that year enacting that, "in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, the Mahomadan laws with respect to Mahomadans, and the Hindú laws with regard to Hindús, are to be considered as the general rules by which the Judges are to form their decisions;"—and section 21 of Regulation III of the same year enacting that "in cases coming within the jurisdiction of the Zillah and City Courts for which no specific rule may exist, the Judges are to act according to justice, equity, and good conscience." The same rule is laid down for the Sádr Díwání in section 31, Regulation VI, and for the Provincial Courts in section 32, Regulation V of 1793. When the Registers were empowered to decide cases by Regulation VIII of 1794, they were directed by section 5 of this Regulation "to be guided by the same rules as" were "prescribed for the trial

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[1] Section 60 for the Mofussil Courts of Díwání Adálat, and section 93 for the Sádr Díwání Adálat.

[2] These words were not reproduced in the Regulations of 1793; but see Regulations XI of 1793 and X of 1800.

[3] Regulation IV of 1793 is entitled "*A Regulation for receiving, trying, and deciding suits or complaints declared cognizable*" in the Zillah and City Courts, and is chiefly concerned with procedure. Regulation III of 1793 is entitled "*A Regulation for extending and defining the jurisdiction of*" the same Courts. There is no Regulation for the Sádr Díwání Adálat or Provincial Courts which corresponds to the former of these two Regulations. Regulation V of 1793 for the Provincial Courts and Regulation VI of 1793 for the Sádr Díwání Adálat correspond to the latter. But section 11 of Regulation V of 1793, and section 7, Regulation VI of 1793, supply the deficiency by enacting that these Courts respectively shall, in trying original cases and appeals, "*proceed in the same manner and with the like powers and authority, and subject to the same restrictions, limitations and exceptions, as are prescribed to the Zillah and City Courts.*" It is of course remarkable that a rule which is so plainly one of substantive law should be placed in the procedure Regulation, while the other rule of substantive law is placed in Regulation III, which relates to the constitution and jurisdiction of the Courts: but it is to be observed that Sir Elijah Impey's original Regulation included both rules, not indeed in juxtaposition, but still so placed that the one may be regarded as supplementary to the other, the rule as to justice, equity and good conscience being found at the end, where it was evidently put so as to be supplementary to all the rules antecedently contained in the Regulation. It is noticeable that this rule is thrice expressly repeated in the Regulations of 1793 (see above), while the rule as to Hindú and Mahomadan law is repeated only by implication. Any argument based on the arrangement of the law of 1793 is worth little, as such arrangement is illogical and unscientific in many particulars. The draughting was not done by professional hands, being the work of Mr. George Barlow, a Civil Servant.

of the suits before the Judge." Similarly, the Native Commissioners appointed under Regulation XL of 1793 were "to consider the principles laid down in the Regulations prescribed to the Zillah and City Courts for trying and deciding suits as the general rule for their guidance."[1] These provisions were doubtless intended to make the two rules of substantive law applicable to the proceedings of the Registers and Native Commissioners.[2]

Alteration of the Rule as to the applicability of Hindú and Mahomadan Law.

§ 236.—When Regulation IV of 1793 was extended to the Province of Benares by Regulation VIII of 1795, the following addition was by the latter Regulation made to the rule as to Hindú and Mahomadan law, *viz.*:—"In causes in which the plaintiff shall be of a different religious persuasion from the defendant, the decision is to be regulated by the law of the religion of the latter; excepting where Europeans or other persons, not being either Mahomadans or Hindús, shall be defendants, in which cases the law of the plaintiff is to be made the rule of decision in all plaints and actions of a civil nature."[3] The rule was however extended without this addition to the provinces ceded by the Nawáb Vizier.[4] The rule of justice, equity and good conscience was also extended to these provinces without alteration;[5] and both rules were subsequently

The two-fold Rule of Substantive Civil Law extended to other Provinces and Courts.

[1] Clause 11, section 9, Regulation XL of 1793.

[2] Yet when the jurisdiction of the Chittagong Munsifs was extended to petty suits for land, although "the whole of the rules and provisions contained in Regulation XL of 1793" were made applicable to their proceedings, among the further "special rules" prescribed for their guidance was this, that "in all cases of inheritance of, or succession to, landed property, the Mahomadan laws with respect to Mahomadans, and the Hindú laws with regard to Hindús, are to regulate the decision" (see sections 4, 5, Regulation XVIII of 1797). If both rules had been otherwise extended, this would appear needless. If both rules had not been otherwise extended, then it is remarkable that, while part of that as to Hindú and Mahomadan law was enacted for Chittagong Munsifs in land suits, the rule as to justice, equity and good conscience was not also enacted for their guidance in these cases; and that, as by the hypothesis neither rule applied to all Munsifs in *other* cases, they were left without any rule of decision whatever. When the law relating to Munsifs and Sádr Amíns was consolidated and amended by Regulation XXIII of 1814, this point was in no respect cleared up—section 14 enacting generally that, in points not expressly provided for in that Regulation, they were to observe as nearly as practicable the rules prescribed in the Regulations for the guidance of the Zillah and City Courts in the trial and decision of civil suits—and section 59 repeating the "special rule" for Chittagong.

[3] Section 3, Regulation VIII of 1795.

[4] Expressly by section 16, Regulation III of 1803, for the Zillah and City Courts, and indirectly by section 7, Regulation V of 1803, for the Sádr Díwání Adálat; by section 11, Regulation IV of 1803 for the Provincial Courts; and by clause 11, section 7, Regulation XVI of 1803 for the Munsifs.

[5] Expressly by section 30, Regulation V of 1803 for the Sádr Díwání Adálat; by section 24, Regulation IV of 1803 for the Provincial Courts; and by section 17, Regulation II of 1803 for the Zillah and City Courts; and indirectly for the Native Commissioners by clause 11, section 7, Regulation XVI of 1803, and clause 8, section 14, Regulation XLIX of 1803. The same indirect provisions extending both rules were re-enacted by section 14, Regulation XXIII of 1814 for Munsifs. The two rules were extended indirectly to the new Head Commissioners or Sádr Amíns by clause 7, section 26, Regulation XVI of 1803 for the Ceded Provinces, and by clause 7, section 9, Regulation XLIX of 1808 for Bengal, Bahár, Orissa and Benares, and again by section 74, Regulation XXIII of 1814.

extended to the Conquered Provinces and Bundlekund.[1] In 1831, Munsifs were for the first time invested generally with power to try suits for real property by Regulation V of that year; and it was provided that in all cases of inheritance of, or succession to, landed property, the Mahomadan laws with respect to Mahomadans, and the Hindú laws with regard to Hindús, were to regulate the decision—that in causes, in which the plaintiff might be of a different religious persuasion from the defendant, the decision was to be regulated by the law of the latter, this rule being however limited to cases in which the defendant was either a Mahomadan or a Hindú[2]—that in cases in which the above rules could not be applied, the Munsifs were to act according to justice, equity and good conscience.[3] It was also provided that the newly appointed Principal Sádr Amíns were to be guided in the trial of original suits and appeals by the rules established for the conduct of business in the Courts of the Sádr Amíns; and that, in points not expressly provided for by those rules, they were to observe as nearly as practicable the rules prescribed in the Regulations for the guidance of the Zillah and City Courts.[4]

Regulation VII of 1832.

Amendment of the Rule as to Hindú and Mahomadan Law.

§ 237.—Section 8, Regulation VII of 1832, repealed the abovementioned Benares rule[5] and enacted that the rules contained in section 15, Regulation IV of 1793, and the corresponding enactment contained in clause first, section 16, Regulation III of 1803, should be the rule of guidance in all suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions that might arise between persons professing the Hindú and Mahomadan persuasions respectively. The following section declared that the above rules were intended and should be held to apply to such persons only as were *bonâ fide* professors of those religions at the time of the application of the law to the case, and were designed for the protection of the rights of such persons, not for the deprivation of the rights of others. Whenever therefore, in any civil suit, the parties to such suit were of different persuasions, when one party was of the Hindú, and the other of the Mahomadan persuasion, or where one or more of the parties to the suit were neither of the Mahomadan nor Hindú persuasion, the laws of those religions were not to be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases the

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[1] See the Chronological Table, second column, opposite the Regulations quoted in the last Note.

[2] This was the Benares Rule, limited and without the exception.

[3] Clauses 2 and 3 of section 6, Regulation V of 1831. Clause 1 rescinded the local rules for Chittagong, which were re-enacted in the following clauses, with additions for all districts. It may be remarked that section 14, Regulation XXIII, still remained in force for Munsifs. If its effect was to extend the double rule, then the above clauses of section 6 of Regulation V of 1831 were surplusage. No similar rules were provided for Sádr Amíns, who were still left to section 74, and for appeals to clause 3, section 75, Regulation XXIII of 1814—nor for Principal Sádr Amíns who were provided for as mentioned above.

[4] Clause 4, section 18, Regulation V of 1831. This is a peculiar provision, implying, as it does, that there were rules applicable to the Zillah and City Courts which were not *expressly* provided for the Courts of the Sádr Amíns. Is there any peculiar force in "expressly?" But see the Preamble and section 2, Act XXVI of 1852.

[5] Contained in clause 2, section 3, Regulation VIII of 1795.

decision was to be governed by the principles of justice, equity and good conscience, it being clearly understood, however, that this provision was not to be considered as justifying the introduction of the English or any foreign law, or the application to such cases of any rules not sanctioned by those principles.[1] It was enacted by section 1 of Act VI

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[1] These provisions evidently amount to this. The special rule for Benares is repealed, and the rule contained in section 15, Regulation IV of 1793, is to be of general application. Then follows a general explanation of what was really intended by that rule, more specially with reference to a certain class of cases in which, while one party is a Hindú or Mahomadan, the other or others do not belong to either of these religions. To this class of cases, says the Legislature, it is not the rule of Hindú or Mahomadan law that is to be applied, but the *other rule* of justice, equity and good conscience—and then in the usual discursive style of the Regulations, the Legislator, taking advantage of the opportunity, goes on to explain how this rule of justice, equity and good conscience is to be understood and applied. Whether this explanation was intended to govern only the particular class of cases referred to in the section, or the general application of the rule, is a difficult and doubtful point. Further, it is not clear to what Courts the amended rules were intended to apply, and that a doubt subsequently arose as to their applicability to Munsifs' Courts appears from the sections being expressly extended thereto by section 3, Act XXVI of 1852. The following cases connected with this rule may be useful:—A Hindú sued for a declaration of his right to membership in a certain society (somaj). No question of *caste* within the meaning of section 8, Regulation VII of 1832 was involved. The effect of a decree would have been that other persons do accept plaintiff's invitations and do partake of his food though against their will, and that they in their turn must give him similar invitations and dine with him whether they liked to do so or not. The Court, after considering all the previous cases, held that such an action would not lie, that the members of such a society (as of a Club in England mainly for social purposes) are the sole Judges whether a particular individual is entitled to continue to be a member or not—*Sadharam Patar* v. *Sadharam and others*, III B. L. R. Civ. Ap. 91.—A Hindú was outcasted for cohabiting with a Mahomadan girl. It was contended that he was in consequence debarred from inheriting, Act XXI of 1850 and section 9 of Regulation VII of 1832 having effect merely when deprivation of caste is in consequence of renunciation of religion, or excommunication from religion. It was decided that this contention was bad, and that exclusion from inheritance could not result from exclusion from caste for any cause whatever—*Bhujjan Lal and others* v. *Gya Persad and others*, II N.-W. P. H. C. R. 446. A Hindú widow, outcasted for unchastity, would not in consequence forfeit her husband's property which had once vested in her—*Srimati Matangini Debya* v. *Srimati Jai Kali Debya*, V B. L. R. 466; *Keri Kolitani* v. *Maniram Kolita*, XIII B. L. R. 1. In the case of *Sheikh Kudratula* v. *Mahini Mohun Saha*, the following question was referred to a Full Bench:—"Whether a Mahomadan, who sues to enforce the right of pre-emption which he would have had in respect of property by reason of vicinage or co-partnership, if such property had been conveyed by the vendor to a Mahomadan, is debarred from enforcing such right, where the purchaser is other than a Mahomadan." In the case of *Sayama Kumar Rai and others* v. *Jan Mahomed and others*, the following question was referred:—"Whether, when the plaintiff claiming pre-emption and the vendor are both Mahomadans, the Mahomadan law of pre-emption does not apply." In the case of *Furman Khan* v. *Bharat Chandra Saha Chaudhri*, the following question was referred:—"Where no local custom exists with regard to pre-emption amongst Hindús, can a Mahomadan pre-emptor be deprived of his right of pre-emption as against a Mahomadan vendor, because that vendor chooses to sell to a Hindú." The three references were argued before and decided by the same Full Bench, IV B. L. R. Full Bench Rul. 134. A majority of the Judges held that the right of pre-emption does not depend on any defect of title on the part of the Mahomadan co-partner to sell except subject to the right of

of 1843[1] that in the trial and decision of all original suits referred to them by the Judge, the Principal Sádr Amíns shall be guided by the rules established for the conduct of business in the Courts of the Zillah and City Judges.

Act XXI of 1850—No forfeiture for change of religion or loss of caste.

§ 238.—Act XXI of 1850, reciting the provisions of section 9 Regulation VII of 1832, and declaring that it would be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company, enacted that so much of any law or usage then in force within the said territories as inflicted on any person forfeiture of rights or property, or might be held in any way to impair or affect any right of inheritance by reason of his or her renouncing or having been excluded from the communion of any religion, or being deprived of caste, should cease to be enforced as law in the Courts of the East India Company and in the Courts established by Royal Charter within the said territories. Act XXVI of 1852, reciting the desirability of assimilating the mode of procedure in original suits in the Courts of Sádr Amíns and Munsífs to the procedure in such suits in the Courts of the Judges and Principal Sádr Amíns, enacted that all laws and rules of procedure for the trial and decision of original civil suits in the Courts of the Judges and Principal Sádr Amíns should apply to and regulate the procedure in the trial and decision of similar suits in the Courts of the Sádr Amíns and Munsífs.[2] It further declared sections 8 and 9, Regulation VII of 1832, as extended by Act XXI of 1850, to be applicable to suits and cases in the Courts of the Munsífs.[3]

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pre-emption, but upon a rule of Mahomadan law, which is not binding on the Court, nor on any purchaser other than a Mahomadan; that therefore a Hindú purchaser is not bound by the Mahomadan law of pre-emption in favor of a Mahomadan co-partner, although he purchased from one of several Mahomadan co-parceners; nor is he bound by the Mahomadan law of pre-emption on the ground of vicinage.

[1] In modification of clause 4, section 18, Regulation V of 1831, which directed the rules for the conduct of business in the Courts of the Sádr Amíns to be followed.

[2] Section 2.

[3] This taken with the context shows that there was no doubt as to these provisions being applicable to the Courts of Principal Sádr Amíns and Sádr Amíns. Was this effected for the former by section 1, Act VI of 1843, which would appear to refer to procedure only? It may be observed that it is in the Procedure Regulation, IV of 1793, that the substantive rule as to Hindú and Mahomadan law was placed. It was doubtless effected for the latter by section 74 of Regulation XXIII of 1814, which remained in force until repealed by Act X of 1861: but this section speaks of rules "*for guidance in the trial and decision*, &c." while section 1, Act VI of 1843, speaks of "*rules for the conduct of business*" merely. Then as to Munsífs, section 14, Regulation XXIII of 1814, was in force—it remained in force until repealed by Act X of 1861. If it was sufficient to extend the two-fold rule, then whence arose the doubt, to settle which section 3 of Act XXVI of 1852 was passed. Was the doubt created by clauses 2 and 3, section 6, Regulation V of 1831? Or was it due to sections 8 and 9, Regulation VII of 1832, being passed after section 14, Regulation XXIII of 1814. If the latter, then there ought to have been the same doubt as to Sádr Amíns, who were governed by another section of the same Regulation. If we reject the effect of these and similar sections as extending the two rules of substantive law, then the Subordinate Civil Courts were for years without any such rule whatever. The effect of some of these sections will be found discussed in *The Secretary of State* v. *The Administrator-General of Bengal*, I B. L. R. Or. Civ. 92.

§ 239.—Finally, one general rule was laid down for all Civil Courts in the territories under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces by section 24 of Act VI of 1871, which enacts as follows:—"Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution, the Mahomadan law in cases where the parties are Mahomadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished. In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience." The substantive law administered in the Civil Courts may then be divided into three parts, *viz.*:—I. Hindú and Mahomadan law in certain cases. II. Legislative enactment. III. The rule of justice, equity and good conscience. Large portions[1] have been, within the last few years, transferred from the domain of No. III to that of No. II. Further transfers are contemplated, and ultimately in all probability the whole or nearly the whole of the third part will be absorbed in the second part.

General Rule of Substantive Civil Law enacted for all Courts by "The Bengal Civil Courts Act, 1871."

§ 240.—The substantive law of the Criminal Courts for a long time consisted of the Mahomadan law, with such modifications as rendered it in some respect conformable to our ideas of punishment as a satisfaction for, and a deterrent from, crime. These modifications were numerous and important, and were scattered over a large number of Regulations and Acts.[2] Difficult to learn, and not in all places easy to understand without risk of error, this criminal law was superseded in 1860 by "The Indian Penal Code," Act XLV of that year, which has been now fifteen years in operation, and has more than justified the expectations of its eminent compilers. During this period it has been found necessary to amend the Code in a few particulars only (see Acts IV of 1867 and XXVII of 1870), and its working has been in all respects most satisfactory. The Penal Code,

Substantive Criminal Law.

[1] "The Indian Contract Act, IX of 1872," "The Indian Companies Act, X of 1866," "The Indian Succession Act, X of 1865," &c. &c.

[2] They were repealed by, and will be found in Act XVII of 1862. No benefit could result from recapitulating and discussing these enactments; but the provisions of a few of them may be noticed. Slavery was abolished by 3 and 4 Wm. IV, cap. 85, section 88, and Act V of 1843. The exemption of Bramins in Benares from capital punishment was abolished by section 15, Regulation XVII of 1817. The punishment of *tashhir*, or carrying a delinquent through the town on an ass with his face blackened, was abolished by Act II of 1849. The punishment of *godna*, or branding, was abolished by the same Act. The words "Darogh go" or "Perjuror" were directed by section 3, Regulation XVII of 1797, to be branded on the foreheads of those convicted of wilful and corrupt perjury. The use of the kora, or scourge, was forbidden, and the rattan substituted therefor by section 4, Regulation XII of 1825. Females were exempted from flogging by section 3 of the same Regulation. The sacrifice of children at Saugor was prohibited by Regulation VI of 1802. Gold and silver-smiths, braziers and blacksmiths, were required by Regulation I of 1811 to take out a licence, and were bound by its terms not to buy gold or silver ornaments from suspicious persons, not to melt down ornaments or plate, not to make house-breaking implements, false keys or picklocks, &c. As to murder and mutilation, see *ante*, § 196. The Law Officers who expounded the Mahomadan law were abolished by Act XI of 1864.

together with a few special and local laws, comprehend the whole of the substantive law administered in the Criminal Courts.

Adjective Civil Law—Procedure.

§ 241.—Turning to Adjective Law and taking the Civil Courts first in order, we find that before 1859, such rules as existed for the procedure of these Courts were to be collected only by diligent study from a number of Regulations and Acts, many of which contained provisions on other and different subjects, and nearly all of which had been more or less obscured by partial repeals and amendments. In 1859 these fragmentary rules were gathered together and reduced to some shape and order in Act VIII of that year, which is entitled "*An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.*" This Act was amended and styled "The Code of Civil Procedure" by Act XXIII of 1861; and was further amended by several later Acts, passed from time to time, as occasion required. It was originally rather an attempt to reduce to order the previously existing scattered rules without making any great changes, than a systematic Code providing completely for the subject with which it dealt. The experience of sixteen years has disclosed many imperfections and omissions, and the original Act is now overlaid with a considerable quantity of case law. A Bill is however before the Legislature for amending and consolidating this branch of the law, and India will doubtless ere long have a Code of Civil Procedure worthy to rank with her other Codes.[1]

Latitude of Appeal.

§ 242.—One of the most remarkable features of Indian Procedure is the great latitude of appeal which it has always permitted. This has generally been considered the only possible remedy for the defects of a system, under which the administration of justice has been conducted by untrained Judges, without the assistance of anything deserving the name of a Bar, and in a country where the checks afforded in England by public opinion and, that which is at the same time its leader and exponent, a public Press, are almost unknown.[2] Some account of the Law of Appeal will therefore be useful in connec-

[1] It is to be regretted, I think, that there is no machinery in India to work new material into the Codes during the intervals between those periodical revisions to which the Codes are subjected. The necessity for a Standing Law Commission for this purpose was one of Austin's ideas for codification. Under the Prussian system, if the Judges, whose duty it is to decide according to the provisions of the Code, differ in their interpretation of it, and cannot unravel the meaning, the decision of the last Court of appeal is referred to the Law Commission, who have power, not to alter the decision as respects the particular case, but to amend the law *in futurum*, and what they promulge is a law declaratory of what shall be deemed law in future on the occurrence of a similar case. It so happened, indeed, that what the Commissioners made law in this way came to exceed the Code many times in bulk: but this, as Austin points out, was mainly due to the original bad construction of the Code, and to the neglect of the Government in not re-modelling it from time to time and inserting the amendments which had been suggested by experience. (Lecture XXXIX).

[2] The reader will find these topics well discussed from an original point of view in the *Minute on the Administration of Justice in British India*, written by Mr. J. Fitzjames Stephen, the late Law Member of the Supreme Council. Much has been said here and elsewhere of the latitude of appeal and of the litigiousness of the people of India: but I venture to say that a careful comparison of the Indian system and of judicial statistics will show that there is very little, if indeed anything abnormal in these respects in India, as compared with other countries.

tion with the present subject. Finality was given to the decisions of none of the Courts established in 1793 except certain decisions of the Provincial Courts. With this exception an appeal lay in all cases from decisions passed in original cases by the inferior Courts to the Courts immediately above them. The decisions of the Native Commissioners were appealable to the Zillah and City Judges:[1] the decisions of the Zillah and City Judges were appealable to the Provincial Courts.[2] The decisions of the Provincial Courts were appealable to the Sádr Díwání Adálat in all cases in which the decree was for land or other real property being *lakhiraj*, the annual produce of which exceeded *one hundred sicca* rupees; or for any zemindárí, independent *talúk*, or other landed estate being *malguzárí*, or for any dependent *talúk* of which the annual produce exceeded *one thousand sicca* rupees; and in all other cases, where the decree was for a sum of money or personal property or real property, the amount or value of which exceeded *one thousand sicca* rupees. In all other cases the decisions of the Provincial Courts whether in original cases or on appeal were final.[3] Under this system there was but one appeal in all cases decided by the Native Commissioners, and in all cases decided by the Zillah and City Judges, which did not exceed the limits of value just mentioned. In cases which exceeded those limits, there was a second appeal to the Sádr Díwání Adálat, and this second appeal was an appeal upon the whole case, and was heard with the like powers and authority, as the first appeal by the Provincial Court, or the original case by the Zillah or City Court.[4]

History of the Law of Appeal.

A Second Appeal in what cases allowed by the system of 1793.

§ 243.—Four years afterwards, the decrees of the Provincial Courts for money or personal property were made final up to five thousand sicca rupees (Regulation XII of 1797), and in the following year finality was given to decrees of the same Court for *malguzári* land, the annual value of which did not exceed *five thousand sicca* rupees; for *lakhiraj* land, the annual value of which did not exceed *five hundred sicca* rupees; and for other real property not exceeding *five thousand sicca* rupees in value (Regulation V of 1798). The number of cases in which a second appeal was possible was largely diminished in consequence of the appealable limit being thus raised. The number not only of second appeals, but of all appeals to the Sadr Díwání Adálat and Provincial Courts must also have been considerably diminished by a provision made in 1796 (Regulation XIII), which empowered these tribunals to punish appeals, which appeared to them litigious, by a fine to Government proportionate to the condition of the party and the circumstances of the case.

Restrictions on Appeal.

§ 244.—In 1801, it was enacted that when a Provincial Court had refused to admit an appeal from the decision of a Zillah or City Court on the ground of delay, informality or other default in preferring it; or, having admitted, dismissed an appeal on the ground of some default without investigation of the merits, it should be competent to the Sádr

Summary Appeals.

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[1] Section 20, Regulation XL of 1793.

[2] Section 20, Regulation III of 1793, and section 12 of Regulation V of 1793.

[3] Section 9 of Regulation V of 1793, and section 10 of Regulation VI of 1793.

[4] Section 7 of Regulation VI of 1793.

Díwání Adálat to receive an appeal from the order of dismissal of the Provincial Court, whatever might be the amount or value at issue in the cause; and, if it appeared, on examination of the proceedings of the Provincial Court that the appeal had been rejected or dismissed on insufficient grounds, it might order the Provincial Court to receive or revive it, and to try and determine the cause upon its merits. The Provincial Courts were invested with similar powers as towards the Zillah and City Courts and in regard of appeals from the Registers and Native Commissioners.[1] The authority thus vested in the Provincial Courts was subsequently extended to original suits, which the Zillah or City Courts had refused to admit on the ground of delay, informality or other default in preferring them; or, having admitted, dismissed on the ground of some default without investigation of the merits.[2] If any of these appeals was on inquiry found groundless or litigious, the litigious appellant might be punished by a fine to Government proportionate to the condition of the party and the circumtances of the case. As the appeal in these cases was not upon the merits of the cause, but merely on the default which was made the ground for rejecting or dismissing the previous appeal, and which necessarily appeared upon the proceedings of the Court by which such appeal had been rejected or dismissed, it was provided that it was not requisite to hold the regular pleadings upon such appeals, or to hold any other than summary proceedings thereupon, such as might appear sufficient on consideration of the stated ground for rejecting or dismissing the previous appeal.[3] These provisions as to summary appeals were amended and consolidated in 1814; and were extended to Zillah and City Judges in respect of cases dismissed by Registers and Sádr Amíns on the ground of some default and without an investigation of the merits.[4] They were further extended in 1838 to the same Judges in respect of cases dismissed by Munsífs on similar grounds.[5]

§ 245.—By the provisions of Regulation XLIX of 1803, the decrees of Zillah and City Judges passed on appeal from their Registers were declared final in suits for *malguzári* land, the annual produce of which did not exceed one hundred sicca rupees; for *lakhiráj* land, the annual produce of which did not exceed ten sicca rupees; and for other real property or for personal property the value of which did not exceed one hundred sicca rupees. Above these limits, the Judge's decree was final, if it *confirmed* the decision of the Register: if it *reversed* or *altered* such decree, a further appeal lay to the Provincial Court.[6] In the former class of cases, or cases above the limits, *affirmed* on appeal, the Provincial Court might however admit a special appeal under the provisions to which

Origin of Special Appeals.

[1] Sections 8 and 9 of Regulation II of 1803, clause 12, section 12 of Regulation IV of 1803.

[2] Section 11 of Regulation II of 1805. A *summary* appeal was, after this, not necessarily a *second* appeal.

[3] Clause 2, section 26, Regulation XLIX of 1803.

[4] Section 3 of Regulation XXVI of 1814, which remained in force until repealed by Act X of 1861.

[5] Act XXII of 1838, which remained in force until repealed by Act X of 1861.

[6] Clauses 2 and 3, section 8, Regulation XLIX of 1803. The *Civil Appeals' Bill* now before the Council proposes to revive this principle of finality where two Courts concur.

we now come. Clause 1, section 24, Regulation XLIX of 1803[1]—reciting that suits tried in the first instance by the Native Commissioners or by the Registers may occasionally involve questions of a general and important nature, particularly in causes between landholders or farmers of land, and the *raiyats* for arrears or exactions of rent, wherein the rights of the landlord and tenant may be at issue, and an erroneous decision not revocable by appeal may be of serious ill consequence—enacted that in all cases, in which a regular appeal did not lie to the Provincial Courts from the decrees of the Zillah and City Courts, it should be competent to the Provincial Courts to admit a *Special Appeal*, if on the face of the decree of the Zillah or City Judge, or from any information before the Provincial Court, it appeared to be erroneous or unjust; or if, from the nature of the cause, as stated in the decree, or otherwise, it appeared to be of sufficient importance to merit a further investigation in appeal. The following clause directed that the discretionary authority so vested in the Provincial Courts was to be used with caution, and was not to be considered to entitle any party to demand of right an appeal in cases wherein the judgments of the Zillah and City Courts were provisionably made final. The Sadr Díwání Adálat was subsequently vested with like powers of admitting special appeals from the decrees of the Provincial Courts.[2]

§ 246.—These provisions were subsequently modified by clause 1, section 2, Regulation XXVI of 1814, which enacted that no *special or second appeal* should be admitted by a Zillah or City Judge, by a Provincial Court or by the Sádr Díwání Adálat, unless upon the face of the decree or documents exhibited with it (assuming all the facts of the case as stated in the decree), the judgment appeared to be *inconsistent with some established judicial precedent,*[3] *or with some Regulation in force, or with the Hindú or Mahomadan law in cases required to be decided by those laws or with some other law or usage applicable to the case, or unless the judgment involved some point of general interest or importance not before decided by the Superior Courts.* The Sádr Díwání Adálat, and Provincial Courts were subsequently empowered to admit a second or special appeal whenever on a perusal of the decree of the Lower Court, from whose decision the special appeal was desired, there *appeared strong probable ground, from whatever cause, to presume a failure of justice.*[4] It was soon however found that this rule was far too indefinite in its terms, and as the result, the Sádr Díwání Adálat and Provincial Courts were overwhelmed with applications for the admission of special appeals, which, "whether ultimately rejected or

Subsequent Amendments of the Law of Special Appeal.

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[1] This Regulation applied only to Bengal, Bahár, Orissa, and Benares. See for the Ceded and Conquered Provinces, clauses 1—4, section 9, Regulation VIII of 1805.

[2] Section 10 of Regulation II of 1805, and clause 3, section 5 of Regulation XXV of 1814. See further, as to the Provincial Courts, clause 4, section 3, Regulation XXV of 1814.

[3] This was explained and a special appeal allowed when the judgment appealed against appeared to be in opposition to, or inconsistent with, another decree of the same Court or of another Court having jurisdiction in the same suit, or in a suit founded on a similar cause of action. In these cases the Court might try the merits of the case, or might refer it back for revision and a further judgment either by the lower appellate or by the original Court—section 7 of Regulation XIX of 1817.

[4] Clause 2, section 2, Regulation IX of 1819.

admitted, occupied more time than could be applied to them without impeding the trial and decision of other more important cases." The rule was therefore repealed a few years after.[1] The Zillah and City Judges were declared competent in cases in which there was no further regular appeal, but in which either of the parties was desirous of a further appeal, to certify to the Provincial Court that such case involved some point of general importance apparently unsettled and fit to be reconsidered in a further appeal. The Provincial Courts were also declared competent to certify appeals in a similar manner to the Sádr Díwání Adálat.[2] As a check on the admission of second or special appeals, it was at the same enacted that no such appeal should be admitted unless two Judges concurred in the propriety of its admission.[3]

Act III of 1843—Special Grounds of Appeal to be certified by Judge who admitted Special Appeal.

§ 247.—The next important enactment was Act III of 1843, which provided that a special appeal should lie to the Sádr Díwání Adálat from all decisions passed in regular appeal which appeared to be *inconsistent with some law or usage having the force of law, or some practice of the Courts, or involved some question of law, usage or practice, upon which there might be reasonable doubts.*[4] Parties were not however allowed to file special appeals as a matter of course and right. They had in the first place to apply for leave. Such applications were heard by a single Judge, who might, at his discretion, call for and peruse any document forming part of the record, and summon the opposite party to answer the application. If it appeared to the Judge that a special appeal was admissible on any of the points allowed by law, he was to pass an order accordingly, and at the same time reduce the point or points to writing in English in the form of a certificate.[5] At the hearing of the special appeal, the Sádr Díwání Adálat was to determine the point or points so certified, *and no other point or part of the case whatever.* When the special ground of appeal was incorrectly or incompletely certified, the Court might however amend the certificate, but only on the points originally stated therein, it not being allowable for the Court to receive or add any new point.[6]

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[1] By clause 1 section 4 of Regulation II of 1825.

[2] Clauses 1 and 2, section 3 of Regulation IX of 1819.

[3] Section 5 of Regulation IX of 1819.

[4] Clause 1, section 2, Regulation XXVI of 1814, was left unrepealed, and, so far as it was consistent with Acts III of 1843 and XVI of 1853 (see section 9 of the former, and section 11 of the latter) remained in force until repealed by Act X of 1861. The result was that a case involving some point of general interest or importance (of law or fact, or mixed law and fact) might be brought before the highest tribunal. This appears to have escaped the framers of the Civil Procedure Code of 1859, section 372 of which merely repeats the provisions of Act III of 1843. If these or similar words had been inserted in that section, the result of the action of the High Court under the Special Appeal Law would have been very different. It may be that the framers of the Code intended clause 1, section 2, Regulation XXVI of 1814 to remain in force, and that the oversight was on the part of the framers of the repealing Act, X of 1861. But the words "*and on no other ground*" with which section 372 closes, may well support the subsequent express repeal.

[5] This was the stating of a case neither by the parties, nor by the Judge who originally tried the suit, nor by the Court who was to determine the case stated.

[6] Sections 4—8, Act III of 1843.

§ 248.—Act III of 1843 was repealed by Act XVI of 1853, which allowed a special appeal on the following grounds: (1) that the decision had failed to determine all material points in difference in the cause, or had determined the same or any of them contrary to law or usage having the force of law; (2) on the ground of the misconstruction of any document; (3) on the ground of any ambiguity in the decision affecting the merits; (4) on the ground of any substantial error or defect in procedure, or in the investigation of the case, provided such error or defect were apparent on the record and had produced or was likely to have produced some error or defect in the decision of the case upon the merits. No special appeal was however to lie, nor was any decision to be reversed, altered, or remanded upon the ground that the decision of any question of fact was contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record. Applications for the admission of special appeals were to be heard by one or more Judges. If any application were heard by two Judges who differed in opinion as to admitting the appeal for hearing, it was to be admitted. If heard by one Judge, who was for rejecting it, the application was to be laid before a second Judge and was to be admitted or rejected according to his opinion. Every order for admitting a special appeal was to specify, for the information of the Court, the grounds upon which it had been admitted; but neither the Court nor the parties were to be confined to those grounds at the hearing. Any Judge admitting a special appeal might certify that in his judgment the decision of the lower Court was manifestly erroneous upon any of the grounds upon which a special appeal would lie. Cases so certified were to be entered in a *List of Certified Special Appeals* and were brought on for hearing without regard to the general list of special appeals. Special appeals when admitted were to be heard by three or more of the Judges of the Sádr Court.

Act XVI of 1853—Grounds of Special Appeal altered.

§ 249.—The provisions of the Code of Civil Procedure as to special appeals are as follow:—"Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sádr (now High Court) from all decisions passed in regular appeal by the Courts subordinate to the Sádr Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits and on no other ground." The last five words of this section and the express repeal of the old Regulations, which dealt with the subject, had the effect of converting the old special appeals into partial appeals upon points of law only, as distinguished from questions of fact, thus making a division between things which in practice cannot be divided.[1] The result has been, in the opinion of all,

[1] "They are inconvenient on many accounts, but in particular because they involve a division between things which in practice cannot be divided, and which none but a technically educated mind can distinguish." *Mr. J. Fitzjames Stephen's Minute on the Administration of Justice in India*, p. 50.

eminently unsatisfactory:[1] and the Legislature is at present engaged upon the difficult work of reforming the system of appeal.[2]

Procedure in Probate, Divorce, and Matrimonial causes:

§ 250.—District Judges have a Probate jurisdiction under *The Indian Succession Act*, X of 1865, which contains provisions as to the practice to be observed in granting and revoking probates and letters of administration, and directs that proceedings therein are, as far as practicable, to be regulated by the Code of Civil Procedure. They have a jurisdiction in Divorce and Matrimonial causes under *The Indian Divorce Act*, IV of 1869, which also directs that proceedings thereunder be regulated by the Code of Civil Procedure. *The Indian Companies' Act*, X of 1866, contains certain rules of procedure and empowers the High Court to make further rules consistent with the Act itself and with the Code of Civil Procedure. The Law of Limitation applicable to the Civil and Criminal Courts has been codified with the greatest care in Act IX of 1871, which in a Schedule of 169 Articles appoints the period of limitation for all suits, appeals and applications which can be made to the Courts. The Courts, both Civil and Criminal, were for a long time unprovided with any proper rules of evidence. The Mahomadan law of evidence did not govern their proceedings:[3] and an Act (II of 1855) passed "for the further improvement of the law of evidence" introduced a certain amount of difficulty, inasmuch as it assumed the English rules of evidence to be in force in the Mofussil Courts, which was not actually the case save in so far as they had been adopted as a source of guidance where the Legislature had not laid down any authoritative rule. At length, however, a Code of Evidence was drawn up and passed into law (Act I of 1872) under the auspices of Mr. J. Fitzjames Stephen. The provisions of this Code apply to both civil and criminal proceedings. In the year after the passing of the Penal Code, a Code of Criminal Procedure (Act XXV of 1861) was enacted for the Courts of Criminal Judicature not established by Royal Charter. After eleven years' successful working, this Code was amended and re-enacted in an improved form in

And under the Companies' Act.

Rules of Evidence.

Adjective Law of the Criminal Courts.

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[1] See the opinions quoted and the mischief described in *Mr. Stephen's Minute on the Administration of Justice in India*, pp. 74—79, and in the *Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations*, p. 1220, *Supplement to the Gazette of India of June 27th*, 1874: p. 1251, *idem of July 11th*, 1874: and p. 1871, *idem of November 28th*, 1874.

[2] There are two points connected with the subject of appeal which may be noticed to complete the above sketch. Act IX of 1854 enacted that no order or decision of any of the Civil Courts should be reversed, altered or remanded on account of any error, defect or irregularity not productive of injury to either party. This provision has been incorporated in section 350 of Act VIII of 1859. Under the provisions of clause 3, section 16, Regulation V of 1831, as amended by Act VIII of 1850 (which also extended its provisions to Principal Sádr Amíns), it was declared unnecessary to serve any process upon the respondent in the first instance and if, after a perusal of the record of the original suit and the petition of appeal, the Judge saw no reason to alter the decision appealed from, he might confirm it and reject the appeal; but he was bound to record his reasons for so doing. This provision is not to be found in the existing Code of Civil Procedure, though there is a corresponding provision in the Code of Criminal Procedure.

[3] *Mir Khedmath Ali* v. *Mussamat Nasiranissa*, II Sev. 449.

Act X of 1872 which "consolidates and amends the law regulating the Procedure of the Courts of Criminal Judicature other than the High Courts in Presidency Towns in the exercise of their original criminal jurisdiction,[1] and the Courts of Police Magistrates[2] in such towns."

§ 251.—In conclusion the Courts (other than Revenue Courts) in the Regulation[3] Districts of the Bengal Presidency may be thus exhibited :—

CIVIL COURTS.

I.—High Court[4] (Original[5] and Appellate[7] Jurisdiction).

II.—Court of District Judge[9] (Original[10] and Appellate[11] Jurisdiction).

III.—Court of Subordinate Judge[9] (Original[10] and Appellate[12] Jurisdiction).

IV.—Court of Munsif[9] (Original[13] Jurisdiction only).

V.—Courts of Small Causes (Original[14] Jurisdiction only).

N.B.—Nos. I and II are presided over by the same functionaries who preside over Criminal Courts Nos. I and II. Nos. III, IV, and V have no Criminal Jurisdiction.

CRIMINAL COURTS.

I.—High Court[4] (Original[6] and Appellate[8] Jurisdiction).

II.—Court of Session (Original[15] and Appellate[16] Jurisdiction).

III.—Magistrate of the District[19] (Original[17] and Appellate[18] Jurisdiction).

IV.—Magistrate of a Division of a District[20] (Original[17] Jurisdiction only).

V.—Magistrate of the First Class[21] (Original[17] Jurisdiction only).

VI.—Magistrate of the Second Class[22] (Original[17] Jurisdiction only).

VII.—Magistrate of the Third Class[23] (Original[17] Jurisdiction only).

N.B.—Nos. III, IV, V, VI, and VII have no Civil Jurisdiction; but have Revenue Jurisdiction, as Collectors, or Deputy or Assistant Collectors.

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[1] Now regulated by *the High Courts Criminal Procedure Act*, X of 1875.

[2] See Acts XIII of 1856, XVIII of 1859, LII of 1860, and XXI of 1864.

[3] The Courts in some of the Non-Regulation Districts are similar to those in the Regulation Districts. In other places they are regulated by Special Acts, for which see the Author's *Chronological Table of and Index to the Indian Statute-book*, TITLES, Civil Courts, Criminal Courts.

[4] For constitution, procedure, &c. see 24 & 25 Vict. Cap. 104, Letters Patent of (1862 repealed and) 1865 for Calcutta High Court, and Letters Patent of 1866 for North-Western Provinces High Court. In the Panjáb there is not a High Court, but a Chief Court constituted by an Act of the Indian Legislature.

[5] Ordinary, for the local limits of Calcutta; Extraordinary, without those limits—in the case of the Calcutta High Court. The N.-W. P. High Court has no ordinary original civil jurisdiction, but has an extraordinary original civil jurisdiction for the districts—see *Letters Patent*.

[6] The Calcutta Court has an ordinary original criminal jurisdiction in respect of Europeans and Natives for offences committed within the limits of Calcutta, and in respect of European British subjects for offences committed outside the limits of Calcutta; and an extraordinary original crimi-

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nal jurisdiction over all persons residing in places within the jurisdiction of any Court subject to its superintendence. The N.-W. P. High Court has an ordinary original criminal jurisdiction over European British subjects in the N.-W. Provinces; and an extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court formerly subject to the superintendence of the Nizámat Adálat—see *Letters Patent.*

[7] From Civil Courts, Nos. II and III. The High Court, in the exercise of its appellate jurisdiction, is to apply such *law or equity and rule of good conscience* as the Court in which the proceedings were originally instituted ought to have applied—see *Letters Patent.*

[8] From Criminal Court, No. II. The High Court has moreover large powers of supervision over all Sessions Judges and Magistrates.

[9] For the juridiction of Civil Courts, Nos. II, III, and IV, see *The Bengal Civil Courts Act*, VI of 1871. An Additional Judge when appointed to aid the District Judge performs such duties as the District Judge assigns to him.

[10] In suits up to any amount or value—see Act VI of 1871.

[11] From Civil Courts, Nos. III and IV. From No. III in cases not exceeding Rs. 5,000 in value, *id.*

[12] In appeals from Civil Court, No. IV, referred for hearing by the District Judge, *id.*

[13] In suits up to Rs. 1,000 in amount or value, *id.*

[14] In claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage or demand does not exceed Rs. 500, extendible by the Local Government to Rs. 1000—see Act XI of 1865.

[15] In all more serious offences, and upon commitment by Magistrates. The offences are specified in column 7, schedule V of *The Code of the Criminal Procedure*, Act X of 1872. The Sessions Judge or Additional Sessions Judge sits in the Court of Session, which can inflict any punishment authorized by law; but sentences of death must be confirmed by the High Court before being carried in effect. The Court of Session sits with Assessors and, in cases in which it has been so directed by Government, with a Jury.

[16] From Criminal Courts, Nos. III and V, and generally from No. IV.

[17] In offences as specified in column 7, Schedule V of *The Code of Criminal Procedure*, Act X of 1872.

[18] In appeals from Criminal Courts Nos. VI and VII.

[19] The Magistrate of the District always, and the Magistrate of a Division of a District generally, is a Magistrate of the first class. See for the powers of the Magistrate of the District, sections 35, 38, 41, 44, 46, 47, and 49, of *The Code of Criminal Procedure.*

[20] See sections 22, 28, 29, and 40, *id.*

[21] May sentence to imprisonment not exceeding two years, to fine not exceeding one thousand rupees and to whipping. For other powers, see sections 22, 26, and 27, *id.*

[22] May sentence to imprisonment not exceeding six months, to fine not exceeding two hundred rupees and to whipping. For other powers, see Ss. 22, 24, and 25, *id.*

[23] May sentence to imprisonment not exceeding one month and to fine not exceeding fifty rupees. For other powers, see sections 22 and 23, *id.*

THE

UNREPEALED REGULATIONS OF THE BENGAL CODE.

REGULATION I OF 1793.

A REGULATION *for enacting into a Regulation certain Articles of a Proclamation, bearing date 22nd March,* 1793.—PASSED *by the Governor-General in Council, on the* 1st *May,* 1793.

I. THE following articles of the Proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor-General in Council to the zemindárs, independent tálukdárs, and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Bahár and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the Proclamation.

PROCLAMATION.

II. Art. I. In the original Regulations for the decennial settlement of the public revenues of Bengal, Bahár and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jamá assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East-India Company, and not otherwise.

Decennial settlement declared conditionally permanent by the original Regulations.

III. Art. II. The Marquis Cornwallis, Knight of the most noble order of the Garter, Governor-General in Council, now notifies to all zemindárs, independent tálukdárs and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Bahár and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East-India Company to declare the jamá, which has been or may be assessed upon their lands under the Regulations above mentioned, fixed for ever.

Governor-General in Council empowered to declare the jamá, assessed upon the lands under those Regulations, fixed for ever.

Jamá assessed upon the lands of proprietors, with or on behalf of whom a settlement has been concluded, declared fixed for ever.

IV. Art. III. The Governor-General in Council accordingly declares to the zemindárs, independent tálukdárs and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the Regulations above mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever.

Jamá which may be hereafter agreed to by the proprietors whose lands are held khas, or let in farm, declared fixed for ever.

V. Art. IV. The lands of some zemindárs, independent tálukdárs and other actual proprietors of land having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above mentioned, the Governor-General in Council now notifies to the zemindars, independent tálukdárs and other actual proprietors of land whose lands are held khas, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above mentioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever: and he declares to the zemindárs, independent tálukdárs and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor-General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be allowed to hold their respective estates at such assessment for ever.

Jamá at which lands belonging to Government may be transferred to individuals, declared fixed for ever.

VI. Art. V. In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals and their heirs and lawful successors shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Assessment in former times liable to variation at the discretion of Government.

VII. Art. VI. It is well known to the zemindárs, independent tálukdárs and other actual proprietors of land, as well as to the inhabitants of Bengal, Bahár and Orissa, in general, that, from the earliest times until the present period, the public assessment upon the lands has never been fixed, but that, according to established usage and custom, the rulers of these provinces have

from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats. The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zemindárs, independent tálukdárs and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of the Court of Directors for abolishing this usage and fixing the assessment, which is declared unalterable by any future Government.

The Governor-General in Council trusts, that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve their estates in consequence of the profits being secured to them.

To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependent tálukdárs and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued. The Governor-General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent tálukdárs and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them. He further expects that without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or applications for suspensions or remissions, on account of drought, inundation, or other calamity of season, will be attended to, but that in the event of any zemindar, independent tálukdár, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands

Conduct to be observed by the proprietors of land towards their dependent tálukdárs and raiyats.

No claims for remissions or suspensions to be admitted on any account.

Lands of proprietors to be invariably sold for arrears.

under the above mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

VIII. Art. VII. To prevent any misconstruction of the foregoing articles, the Governor-General in Council thinks it necessary to make the following declarations to the zemindárs, independent tálukdárs and other actual proprietors of land.

Government to enact such Regulations as they may think necessary for the welfare of the dependent tálukdárs and cultivators, and proprietors not to withhold the revenue on that account.

First. It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent tálukdárs, raiyats and other cultivators of the soil: and no zemindár, independent tálukdár, or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

All internal duties that may be hereafter established to belong exclusively to Government.

Second. The Governor-General in Council having, on the 28th July, 1790, directed the sáyar collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares, that if he should hereafter think it proper to re-establish the sáyar collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Jamá that may be assessed on alienated lands to belong exclusively to Government.

Third. The Governor-General in Council will impose such assessment as he may deem equitable, on all lands at present alienated and paying no public revenue, which have been, or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

[But see s. 6, Reg. XIX of 1793.]

Police allowances in land or money, received by proprietors whose jamá is declared fixed, resumable by Government.

Fourth. The jamá of those zemindárs, independent tálukdárs and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jamá for keeping up thannahs, or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor-General in Council reserves to himself the option of resuming the whole or part

of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. The Governor-General in Council, however, declares that the allowances or produce of lands which may be resumed, will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the collectors, not to add such allowances, or the produce of such lands, to the jamá of the proprietors of land, but to collect the amount from them separately.

Allowances that may be so resumed not to be added to the jamá, but to be collected separately, and applied solely to the Police.

[In the case of *Raja Lelanand Singh* v. *The Government of Bengal*, VI Moo. Ind. Ap. 101, it was decided that certain lands formerly granted in *ghatwáli* tenure in the *zemindári* of Khurruckpore were not liable to resumption under this clause, such lands having formed a portion of the zemindári upon which the revenue had been assessed, and not being lands, which at the time of settlement had been allowed to be held revenue-free or at a reduced revenue for Police purposes.]

Fifth. Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears which have accrued, or may accrue, on the fixed jamá that has been or may be assessed upon their lands under the above mentioned Regulations for the decennial settlement; provided that such arrears have accrued, or may accrue, during the time that they have been or may be dispossessed of the management of their lands, under the said Regulations of the 15th July, 1791. It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands in consequence of the ground of their disqualification no longer existing, or of the Governor-General in Council dispensing with, altering, or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jamá, that has been or may be assessed thereon from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the Regulations of the 15th July, 1791, are and will be held answerable for any arrears that are or may become due from them, on the fixed jamá which they, or any persons on their behalf, have engaged, or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

Estates of disqualified proprietors not liable to sale for arrears of assessment accruing whilst they are deprived of the management of them.

[See s. 17, Act XI of 1859; and *ante*, p. 86.]

Proprietors declared privileged to transfer their lands without the sanction of Government.

IX. Art. VIII. That no doubt may be entertained, whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the zemindárs, independent tálukdárs and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary rights in the whole, or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid, provided that they be conformable to the Mahomadan or the Hindú laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations, now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Provided the transfer be conformable to law, and not contrary to any existing Regulation.

[See *ante* p. 36.]

Rules for apportioning the fixed jamá on portions of estates, in the event of their being disposed of at public sale, or transferred by the proprietors, and on shares of estates divided amongst the joint proprietors, upon the transfer or division being notified to the Collector, or other prescribed officer, and the jamá so adjusted declared fixed for ever.

X. Art. IX. From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements) of any landed property, for the assessment on which a distinct engagement has been, or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jamá assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management. But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise from the want of a declared rule for estimating the proportion of the fixed jamá with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained. The Governor-General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified,

to be left to the proprietors, he requires, that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue of the zillah in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed jamá, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jamá charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jamá assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor-General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the zillah, or such other officer as may be hereafter prescribed, for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jamá assessed upon it, in the same manner as if no such transfer or division had ever taken place. The Governor-General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article (which are conformable to the principles of the existing Regulations), that if any zemindár, independent tálukdár, or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent táluk, the jamá which may be stipulated to be paid by the dependent tálukdár will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

But the transfer of dependent táluks not to affect the rights or claims of Government in any respect.

[See s. 14, Reg. I of 1801, and s. 3, Reg. XVIII of 1812.]

First. In the event of the whole of the lands of a zemindár, independent tálukdár, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations above mentioned, being exposed to public sale by the order of the Governor-General in Council for the discharge of arrears of assessment, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs and

lawful successors shall hold them at the jamá at which they may be so purchased for ever.

Second. When a portion of the lands of a zemindár, independent tálukdár, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before mentioned, shall be exposed to public sale, by order of the Governor-General in Council, for the liquidation of arrears of assessment, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them, which may be sold, be disposed of in one, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors will be allowed to hold them at the jamá at which they may be so purchased for ever; and the remainder of the public jamá, which will consequently be payable by the former proprietor of the whole estate on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third. When a zemindár, independent tálukdár, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate, so transferred, shall be fixed at an amount which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors shall hold them at the jamá at which they may be so transferred for ever: and where only a portion of such estates shall be transferred, the remainder of the public jamá which will conse-

quently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth. Whenever a division shall be made of lands, the settlement of which has been, or may be concluded with or on behalf of the proprietor or proprietors, and that are, or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jamá assessed upon the whole of the estate divided may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is, or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors shall hold their respective shares at the jamá which may be so assessed upon them, for ever.

[See s. 5, Reg. VIII of 1800. *Actual produce*, as used in the clauses of this section, is defined by s. 8, Reg. I of 1801.]

Rules for adjusting the jamá of lands held khas, or let in farm, in the event of the whole or any part of them being disposed of by private transfer, or divided amongst the proprietors, and the jamá so adjusted declared fixed for ever.

XI. Art. X. The following rules are prescribed respecting the adjustment of the assessment on the lands of zemindárs, independent tálukdárs, and other actual proprietors of land, whose lands are or may be held khas or let in farm, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

Second. If a zemindár, independent tálukdár, or other actual proprietor of land, whose lands are or may be held khas, or let in farm, shall transfer by private sale, gift, or otherwise, the whole or a portion of his or her lands in one, or in two or more lots, the person or persons to whom the lands may be so transferred, shall be entitled to receive from Government (if the lands are held khas), or from the farmer (if the lands are let in farm), the malikána to which the former proprietor was entitled on account of the lands so transferred. Persons to whom such lands may be so transferred will stand in the same predicament as the zemindárs, independent tálukdárs, or other actual proprietors of land mentioned in the fourth article, whose lands are held khas, or have been let in farm in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be held applicable to them.

Third. In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khas or let in farm, the proprietors of the several shares will stand

in the same predicament, with regard to their respective shares, as the zemindars, independent tálukdárs and other actual proprietors of land specified in the fourth article, whose lands have been let in farm, or are held khas, in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be considered applicable to them.

[So much of ss. 10 and 11 as related to the adjustment of the Government jamá on lands exposed to public sale in satisfaction of the decrees of the Courts of Civil Judicature was repealed by s. 1 of Act IV of 1846; and all extensions of what was so repealed were repealed by s. 2 of the same Act. Under the provisions of Act IV of 1846, the Civil Courts in Lower Bengal were empowered to make attachments and sales of land or of any interest in land in satisfaction of their decrees, without application to the Revenue Authorities, and such sales were declared to be in the nature of private transfers. In the North-Western Provinces such attachments and sales were directed to be made, upon the requisition of the Civil Courts, by the Collector or any of his subordinate officers under his directions.

Act IV of 1846, in so far as it applies to any territories to which Act VIII of 1859 has been or may be extended, but saving so far as it repeals any other Regulation or Act, was repealed by Act X of 1861. Sales of land in execution of the decrees of the Civil Courts are now therefore made under the provisions of Act VIII of 1859 in those territories in which this Act is in force. These provisions will be found in ss. 248—260. When the land to be sold is land paying revenue to Government, the sale is to be conducted by the Collector on the requisition of the Court, if the Government shall so direct (s. 248, and Rules of Rev. Dept. L. P. p. 268). Otherwise, the sale must be conducted by the Civil Court Amín or other officer duly empowered by the Civil Court. By whomsoever the sale is made, a proclamation must be made in the current language of the district, specifying the time and place of the intended sale, the property to be sold, and when this property is an estate or part of an estate paying revenue to Government, *the revenue assessed thereupon*, the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary; and it must also be declared that the sale *extends only to the right, title and interest of the defendant in the property specified therein.* The sale cannot take place till after the expiration of at least thirty days from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale (s. 249). A certificate is granted to the purchaser to the effect that he has purchased the right, title and interest of the defendant. The purchaser at an execution-sale therefore steps into the place of the judgment-debtor, acquires merely his right, title and interest, or in other words, takes the land subject to all claims and equities to which it would have been subject in the hands of an assignee by private transfer, and has no power to avoid incumbrances, such as that which belongs to a purchaser at a sale for arrears of Government revenue.

When the property to be sold is an estate or part of an estate paying revenue to Government, the proclamation of sale *is to state the revenue assessed thereon.* Those portions of estates only, upon which a separate jamá has been assessed beforehand can be sold; and a portion of an estate cannot be sold, which, so far as the jamá is concerned, forms an undivided portion of the whole estate.]

REGULATION II OF 1793.

A REGULATION *for abolishing the Courts of Mâl Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts, to the Courts of Díwání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.*—PASSED *by the Governor-General in Council on the 1st May 1793.*

Preamble.

IN the British territories in Bengal, the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export are the produce of the lands. It follows, that the commerce and consequently the wealth of the country must increase in proportion to the extension of its agriculture. But it is not for commercial purposes alone, that the encouragement of agriculture is essential to the welfare of these provinces. The Hindús, who form the body of the people, are compelled by the dictates of religion to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives as are not of that persuasion, are, from habit or necessity, in a similar predicament. The extensive failure or destruction of the crops, that occasionally arises from drought or inundation, is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth. Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities, until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and, as a necessary consequence, the stock of grain in the country at large shall always be sufficient to supply those occasional but less extensive deficiencies in the annual produce, which may be expected to occur notwithstanding the adoption of the above precautions to obviate them. To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British administration has been directed in its arrangements for the internal government of these provinces. As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estates,

and given them the means of raising the funds necessary for that purpose. The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government. With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government. The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the *raiyats* or tenants for each *bígha* of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public, and the remainder, the share of the landholder. Refusal to pay the sum required of him, was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the abovementioned share of the landholder, or such sum as special custom or the orders of Government might have fixed, was paid to him by the farmer or from the public treasury. When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate; and monied men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious. The same causes therefore which prevented the improvement of land, depreciated its value. Further measures however are essential to the attainment of the important object above stated. All questions between Government and the landholders respecting the assessment and collection of the public revenues, and disputed claims between the latter and their raiyats, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of *mâl adálat*, or Revenue Courts. The Collectors of the revenue preside in these Courts as Judges, and an appeal lies from their decisions to the Board of Revenue, and from the decrees of that Board, to the Governor-General in Council in the Department of Revenue. The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue Officers are vested with these judicial powers. Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte* proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions, whenever they interfere with their financial duties, it is obvious that if the regulations for assessing and collecting the public revenue are infringed, the Revenue Officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another. Their financial occupations equally disqualify them for administer-

ing the laws between the proprietors of land and their tenants. Other security therefore must be given to landed property, and to the rights attached to it, before the desired improvements in agriculture can be expected to be effected. Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges, which, as exercising the legislative authority, it has conferred on the landholders. The Revenue Officers must be deprived of their judicial powers. All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges, who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants. The Collectors of the revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature; and collect the public dues, subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it. No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed, or the value of landed property affected. Land must in consequence become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture, which are as essential to their own welfare as to the prosperity of the State. The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue on the 8th June 1787, and the 25th April 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

Collection of the land revenue to be committed to Civil Covenanted Servants of the Company.

III. The collection of the revenue payable to Government from the estates in each *zillah*, is to be committed, as heretofore, to a Civil Covenanted Servant of the Company, who is to be styled *Collector of the revenue of the zillah* to which he may be appointed.

[See *ante*, pp. 69—71.]

Collectors to correspond with and obey all orders from the Board of Revenue.

IV. The Collectors are to correspond with the Board of Revenue, and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation, and also to all instructions which the Board of Revenue may hereafter transmit to them.

Seals of the Collectors.

V. The Collectors of the several *zillahs* are to use a circular seal, one inch and a half in diameter. The seals of the Collectors in Bengal and Orissa are to

bear an inscription to the following effect, in the Bengal and Persian characters and languages; and the seals of the Collectors in Bahár, a similar inscription in the Persian character and language, and the Hindustaní language and Nagrí character. "The seal of the Collector of the *zillah* of ——."

Collectors to keep an attested diary of their official transactions.

VI. The Collectors are to keep a regular diary of their official transactions, either in the English, Persian, or Bengal language, recording and attesting them with their official signature at the time they may take place.

[See Act XXIX of 1837, which allows the use of the Persian language in Revenue Proceedings to be dispensed with.]

Duties to be performed by the Collectors under the superintendence of the Board of Revenue.

VII. The duties prescribed in the following section, are to be performed by the Collectors, under the superintendence of the Board of Revenue.

[Many of the functions of the Board of Revenue are now exercised by the Commissioners, see *ante*, p. 72, note.]

To collect the public dues from proprietors,

VIII. *First.* To collect the amount of the fixed revenue assessed upon the lands of the *zemindárs*, independent *tálukdárs*, or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

and farmers of land,

Second. To collect the stipulated annual revenue from the farmers of estates let in farm.

and from lands held *khas*.

Third. To levy the rents and revenue from estates held *khas*,

To make the future settlement of farmed or *khas* lands.

Fourth. To make the future settlement of *khas* or farmed estates, agreeably to the Regulations, and the instructions which they may receive for that purpose.

To prosecute for the public dues from lands illegally held exempt from the payment of revenue.

Fifth. To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

[See Regs. XIX and XXXVII of 1793, *post*, and notes thereto.]

To pay the *zemindárí* pensions included in the public *jamá*, and the *sayer* pensions and compensations.

Sixth. To pay the pensions and allowances included in the public revenue, and the pensions and compensations granted in consequence of the abolition of the *sayer*.

[The *sayer*, or local taxes and imposts, levied by zemindars and others, were abolished by Reg. XXVII of 179.]

To execute the orders of the Court of Wards.

Seventh. To execute the instructions which may be issued to them by the Court of Wards, regarding disqualified landholders and their estates.

To superintend the division of estates.

Eighth. To superintend the division of landed property paying revenue to Government, which may be ordered to be divided into two or more distinct estates.

[See Reg. XIX of 1814.]

Ninth. To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

To apportion the *jama* on lands disposed of at public sale.

[This function may be said to be obsolete, as portions of estates are no longer sold—see *ante*, pp. 82 *et seq.*]

Tenth. To collect the tax on spirituous liquors and intoxicating drugs or articles.

To collect the tax on spirituous liquors or intoxicating drugs or articles.

[See Act XXI of 1856.]

Thirteenth. To perform the above, and all other duties, according to the rules that have been or may be prescribed to them, by any Regulation published in the manner directed in Regulation XLI, 1793.

To perform the above and all other duties according to the Regulations.

Fourteenth. To transmit such annual, monthly or other accounts, as they now furnish, or may be hereafter required to send, by the Board of Revenue, or any officer under that Board empowered to require such accounts.

To furnish the required annual and other accounts.

Fifteenth. To conform to all special orders that have been or may be issued to them by the Board of Revenue, or by public officers empowered to issue such orders.

To conform to all special orders from the Board of Revenue or public officers.

IX. All native officers under the Collector are to act agreeably to his orders, and such rules as he may prescribe. They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices, by the Collector, the Board of Revenue, or the Governor-General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorized act.

Native officers to obey the orders of the Collector. Not to perform any official act without his sanction—Penalty.

X. The Collectors are prohibited from employing directly or indirectly, their private servants, whether *banyans* or others, in the discharge of any part of their public duties, it being required that in all matters relating to the trust committed to them they act as the only empowered agents of Government. This prohibition, however, is not meant to restrict them from occasionally employing their assistants or their inferior public servants in the cases and in the manner, in which they are authorized to make use of their agency.

Collectors not to employ their private servants in public matters. This prohibition not to prevent their employing their public officers in the manner authorized.

XI. The *khezanchi*, or native cash-keeper in each *zillah* is to be nominated by the Collector, who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge. The Collector is to transmit the names of the persons whom he may nominate to the office of *khezanchi*, and of his surety, with a copy of the engagements executed by the latter, to the

Rules respecting the appointment and removal of native cash-keepers.

Board of Revenue; but the person so nominated shall not be considered as appointed until the Board of Revenue shall have signified their approbation both of him and his surety. The native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause proved to the satisfaction of the Board of Revenue; and he and the Collector shall be held jointly and severally responsible to Government for the public money committed to their charge.

Appointment and removal of all native servants vested in the Collector. Exceptions. To notify all appointments and removals to the Board of Revenue. Public and registered officers only to be employed in public matters.

XIII. The appointment and dismission of all native public servants on the establishments of the Collectorships (the keepers of the native records and the *khezanchi* excepted) are vested in the Collectors. But they are to transmit to the Board of Revenue regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not under any plea or pretext to confer on their public officers any private trust relating to their personal concerns.

[Such parts of this section as declare the appointment and dismission of native public servants of the establishments of the Collectorships (the keepers of the records and khezanchies excepted) to be vested in the Collectors were rescinded by s. 3, Reg. V of 1804, which was repealed by s. 1, Act XVI of 1874, save as therein provided.]

In the absence of the Collector, the senior assistant to officiate in his room.

XIV. In the event of the death, or removal of a Collector, or of his absence from his station, the Senior Assistant on the spot is to perform the duties of Collector, and the public officers of the Collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extra officially in the revenues. Native officers, &c. prohibited purchasing lands at public sale in the *zillah*.

XV. No Collector, Assistant to a Collector, or any native in the employ of a Collector, or of an Assistant, shall hold directly or indirectly any farm, or be concerned on their private account, in the collection or payment of the revenue of any lands in the *zillah*, either as farmer, surety, or otherwise; and native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector may dispose of at public sale, under the penalty of forfeiting the property to Government upon proof being made to the satisfaction of the Governor-General in Council of the property having been so purchased.

This rule not to preclude such native officers or servants from making *bonâ fide* purchases of land at private sale.

XVI. The rules in the preceding section, however, are not to be considered to prohibit a native officer of a Collector, or any private servant of a Collector or of an Assistant, from purchasing *bonâ fide* the proprietary right in lands situated in the *zillah* by private sale.

XVIII. No Collector, Assistant, shall directly or indirectly carry on any trade, or be concerned in any commercial transaction whatever. This prohibition with regard to Collectors and their Assistants is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe.

Collectors and Assistants prohibited from trading. This prohibition with regard to Collectors and their Assistants to extend to the purchase of goods for remitting money to Europe.

[The word "or" is understood between "Collector" and "Assistant," as the words "or Diwán" which stood after "Assistant" were repealed.]

XX. The Collectors are to be careful that the accounts and records of their respective *zillahs* are kept complete and duly preserved.

Collectors to keep complete, and preserve the public records.

XXIV. The Collectors are prohibited deputing any person into the *zillah* of any other Collector, or exercising any authority beyond the limits of their respective *zillahs*, excepting in cases in which they may be authorized so to do by special orders from a competent authority.

Collectors not to exercise any authority beyond the limits of their respective *zillahs* without general or special orders.

XXV. The Collectors are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received. The keepers of the native records are to keep a register of these receipts regularly numbered. After having registered the receipts, they are to attest on the face of them the date on which they may be registered. A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board may require. A similar register of receipts is to be kept by all *tehsildárs*, *sazawals*, or other native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector monthly, or as often as he may require.

Rules with regard to receipts.

XXVI. The monthly, or other receipts for salaries, pensions, or allowances of whatever kind, which may be paid by the Collectors, are to be deposited amongst the public records of their respective *zillahs*, and a register of them is to be kept by the keepers of the native records.

Monthly receipts for salaries, &c. to be deposited amongst the public records and registered.

XXXIII. The Board of Revenue are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent *táluqdár*, underfarmer, or *raiyat*, or any native officer employed under a Collector, for the purpose of adjusting any settlement, or examining any accounts, or enquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary. In such cases, the Board are to direct the Collector to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by

Cases in which the Board of Revenue may require the personal attendance of natives.

such period as they may limit, under pain of being subject to such daily fine until he attends or shows satisfactory cause for his non-attendance, as the Board may think proper to impose. The Board are empowered to fine such persons, neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party; and the amount of the fine shall be levied by the Collector by the process prescribed for the recovery of arrears of revenue. But the Board of Revenue are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a *vakíl.*

Board of Revenue empowered to issue orders to their subordinate officers for forming the settlement of lands held *khas.*

XXXVI. The Board of Revenue are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be *khas,* in conformity to the Regulations and any special instructions which may be prescribed to them by the Governor-General in Council.

Security for the payment of the revenue not to be demanded from proprietors, but to be required in all cases from farmers.

XXXVII. In all cases of a settlement being made with or on behalf of *zemindárs,* independent *tálukdárs,* or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue. But where lands are let in farm, a *malzamin* or surety for the punctual discharge of the revenue is to be invariably required.

Remissions not to be granted without the sanction of the Governor-General in Council.

XXXVIII. No remissions upon the settlement of a preceding year, nor any remissions whatsoever are to be granted by the Board without the sanction of the Governor-General in Council.

Settlements to be made by the Collectors.

XXXIX. It is to be observed as a general principle, that the settlement of lands, that are or may be *khas,* is to be made by the Collectors under the Regulations and the instructions of the Board of Revenue. But if the Board should deem a special deputation of one of their members, or of any other person necessary to form the settlement of any such lands, they are to propose the measure to the Governor-General in Council with their reasons for recommending it.

Upon a settlement being concluded, the Board of Revenue to issue the usual *bandobasti parwanas* without reference to the Governor-General in Council.

XL. Upon a settlement being concluded with any proprietor or farmer conformably to the Regulations, the Board of Revenue are to issue the usual *bandobasti parwana* to the proprietor or farmer, without applying to the Governor-General in Council for his sanction for that purpose.

Revenue to be levied by the Collectors.

XLI. The collection of the revenue is committed to the Collectors; but the Board of Revenue are to see that the revenues are realized by the stipulated

periods, or that solid and satisfactory reasons are assigned by the Collectors for any delay or deficiency. The power of coercion over the proprietors and farmers of land is also vested in the Collectors, as prescribed in Regulation XIV, 1793.

[See *ante* pp. 76 *et seq.*]

Board of Revenue to see that it is punctually collected, or that satisfactory reasons are assigned for the arrears. Process for the recovery of arrears to be issued by the Collectors only.

XLII. The Board are authorized to grant temporary suspensions of the demands of revenue, whenever it may appear to them indispensably necessary, reporting the sum suspended without delay to the Governor-General in Council, with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

Board empowered to grant temporary suspensions. Period for the payment of the sum suspended not to be extended beyond the year in which it may be granted.

XLIII. No remissions of balances are to be granted without the special authority of the Governor-General in Council.

Remissions of balances not to be granted without the special sanction of the Governor-General in Council.

XLV. The Board of Revenue are to furnish the Governor-General in Council with such annual, monthly or other accounts, as they now are, or may be required to submit to him. They are likewise to observe all special orders which they have received, or may receive from the Governor-General in Council.

Board of Revenue to furnish the Governor-General in Council with the accounts required of them.

REGULATION VIII OF 1793.

A REGULATION *for re-enacting, with modifications and amendments, the Rules for the Decennial Settlement of the public Revenue payable from the Lands of the Zemindárs, independent Tálukdárs, and other actual Proprietors of Land in Bengal, Bahár and Orissa, passed for those Provinces respectively on the* 18*th September* 1789, *the* 25*th November* 1789, *and the* 10*th February* 1790, *and subsequent dates.*—PASSED *by the Governor-General in Council on the* 1*st May* 1793.

IV. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether *zemindárs, tálukdárs,* or *chaudhrís.*

Settlement under certain restrictions, to be concluded with the actual proprietors of the soil.

Order for the separation of independent *táluks* to be considered as positive.

XIII. *Tálukdárs*, whose *táluks* have been ordered to be separated, are not to be permitted to pay the revenue assessed upon their lands through the *zemindárs* or other actual proprietors of estates, as heretofore.

Separated *tálukdárs* to pay their revenue immediately into the Collector's treasury, except in particular cases, in which *tehsildárs* are to be appointed to receive it.

XIV. *Tálukdárs*, who in consequence of the rules in sections 5 and 9 may be separated from the *zemindárs* or other actual proprietors of estates through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's treasury, except in districts, where from the number of *táluks* or other cause this mode would be attended with considerable inconvenience, in which case *tehsildárs*, or Native Collectors are to be appointed to receive the revenue of the *táluks* in such districts.

[Ss. 5 and 9 were repealed by Act XVI of 1874. They were as follow:—

V. *First.*—The tálukdárs to be considered the actual proprietors of the lands composing the táluks are the following:

What tálukdár to be considered actual proprietors of land.

Second.—Tálukdárs who purchased their lands by private or at public sale, or obtained them by gift from the zemindár or other actual proprietor of land to whom they now pay the revenue assessed upon their táluks, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land from the zemindár, or sanads from the khalsa, making over to them his proprietary rights therein.

Third.—Tálukdárs, whose táluks were formed before the zemindár, or other actual proprietor of land to whom they now pay their revenue or his ancestors succeeded to the zemindárí.

Fourth.—Tálukdárs, the lands comprised in whose talúks were never the property of the zemindár or other actual proprietor of the soil, to whom they now pay their revenue, or his ancestors.

Fifth.—Tálukdárs who have succeeded to táluks of the nature of those described in the preceding clauses, by right of purchase, gift, or inheritance, from the former proprietor of such táluks.

Proprietors of malguzárí aymá lands entitled to separation.

XI. The rules in s. 5 respecting táluks have also been extended to aymá lands liable to the payment of a fixed quit revenue, denominated malguzárí aymás; and, agreeably to the distinctions laid down in that section, it has been ordered that such malguzárí aymá tenures as are held under grants of the Mahomadan Government previous to the Company's accession to the Díwání, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of tálukdárs who are proprietors of the lands composing their táluks. But malguzárí aymá tenures, which may appear to have been *bonâ fide* granted for the purpose of bringing waste lands into cultivation, shall continue included in the estates to which they are now annexed, as coming within the rules in s. 8, respecting jangalburí táluks.

Proviso.

As to S. 5, see S. 14, Reg. I of 1801, under which claims to separation made after the 15th January 1802 were barred.]

Proprietors from whose estates *táluks* may be separated, shall not

XV. *Zemindárs* or other actual proprietors of land, from whose *zemindárís* or estates *táluks* may be separated, shall not be appointed *tehsildárs* to receive the revenue of the *táluks* so separated, but the office of *tehsildár* shall

in every instance be given to some other person of character and responsibility and the whole expense of it is to be defrayed by Government.

be appointed *tehsildárs*. This office, to whom to be given, and the expense incident to it, how to be defrayed.

XVI. *Mukarrarí* leases to persons not the actual proprietors of the lands included in such leases, if granted or confirmed by the Supreme Government or obtained previous to the Company's accession to the *Díwání*, are to be continued in force during the lives of the lessees, subject to an abatement of the fixed *jamá* for the authorized *sayar* resumed or abolished; but on their death the settlement is to be made with the actual proprietors of the soil, agreeably to this Regulation.

[See S. 4 Reg. II of 1819, *post*.]

Rule respecting *mukarrarí* leases to persons not the proprietors of the lands included in them, if granted or confirmed by the Supreme Government; or obtained previous to the Company's accession to the *Díwání*.

XVII. *Mukarrarí* grants to the actual proprietors of the soil, made or confirmed by the Supreme Government, are also to be continued in force, subject in like manner to an abatement of the fixed *jamá* on account of the resumption or abolition of the authorized *sayar*.

Rules respecting *mukarrarí* grants to the proprietors of the soil made or confirmed by the Supreme Government.

XVIII. *Mukarrarídárs* holding lands of which they are not the actual proprietors, and whose *mukarrarí* grants have been obtained since the Company's accession to the *Díwání* and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

Rule respecting *mukarrarídárs* holding lands of which they are not the proprietors, granted since the Company's accession to the *Díwání* and not sanctioned by Government.

[If a patta does not contain the term *mukarrarí* or equivalent words of limitation, as "from generation to generation," it is not *primá facie* to be assumed to grant a *muharrarí istímrarí* or perpetual tenure, but evidence of long uninterrupted enjoyment at a fixed unvarying rent may supply the want of such words of limitation—*Dhanpat Singh* v. *Gúman Singh*, *Muddun Lal Dass and others*, 11 Moo. In. Ap. 433.

As to *mukarrarí* and *istimrarí*, see *ante*, p. 39. The term *mukarrarí* used alone does not necessarily import perpetuity—*The Government of Bengal* v. *Jafur Hossein Khan*, 5 Moo. In. Ap. 498. But *mukarrarí stimrarí* used together convey an hereditary right in perpetuity—*Mussamat Lakhí Kauar* v. *Rai Hari Krishna Singh*, 3 B. L. R. A. C. 226; 12 W. R. 3; *Karunakar Mahati* v. *Niladhro Chaudhri*, 5 B. L. R. A. C. 652; 14 W. R. 107.]

XIX. *Istímrardárs*, however, who have not got possession of their lands to the exclusion or without the consent of the actual proprietors, as the *mukarrarídárs* mentioned in section 18 are supposed to have done, but hold them of the proprietors on *patta* or lease, are to be considered as a species of *patta tálukdárs*, and the settlement is to be made with them as hereafter specified.

Description of *istímrardárs* to be considered as *patta tálukdárs*.

Exceptions to the general orders for the conclusion of the decennial settlement with the actual proprietors of the soil.

XX. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions of persons—females (excepting those whom the Governor-General in Council may judge competent to the management of their own estates,) minors, idiots, lunatics, or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature ; provided, however, with regard to the whole of these descriptions that they are not partners in the *zemindárís*, independent *táluks*, or other estates held by them, with others of a different description, in which case themselves or guardians are allowed with their partners to engage for the settlement of their lands and elect a joint manager under the restrictions hereafter mentioned.

Lands of proprietors included in the above exceptions to be managed by persons appointed by Government.

XXI. The lands of disqualified proprietors coming within the above descriptions are to be managed, for the benefit of the proprietors, by persons appointed to the trust by Government.

Further exception with respect to proprietors of land in balance to Government, and unable to pay the arrears due from them.

XXII. A further exception has been made to proprietors in balance to Government and unable to pay the arrears due from them ; in which instances, no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm or held *khas* for a period of three years at the discretion of the Collector.

Determination of the majority of the proprietors to be binding on the remainder, in agreeing to the *jamá* of undivided estates. But the sharers, if dissatisfied, may obtain a division of their lands.

XXVI. The determination of the majority of the proprietors present, under the restrictions specified in section 23, is also to be binding on the remainder in agreeing or disagreeing to the *jamá* proposed for undivided estates. The sharers however, if dissatisfied, may obtain a division of their lands, and a proportionate allotment of the revenue assessed thereon, but at their own expense.

[S. 23 was repealed by S. 2, Reg. XVII of 1805. It was as follows:—"Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in S. 20, the settlement is to be made with them jointly and they are to be required to elect a sarbarahkar or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present, in the event of the absence of any, is to be binding on the remainder in the choice of a manager, and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue." See S. 10, Reg.VII of 1822.]

Rules respecting the settlement of land

XXVII. When a portion of land stands in the joint names of several proprietors or of one for many, but each proprietor has his separate share in his

own possession and mangement or in that of an agent for him, the settlement is to be made for each share with the person in possession and his land is to be held exclusively responsible for the revenue assessed upon it.

standing in the joint names of several proprietors, or of one for many, each proprietor having his separate share in his own possession.

XXVIII. In case of mortgage, if the mortgagee has obtained possession of the land, the settlement is to be made with him, and the proprietor is to be declared entitled to succeed to his engagements on recovering possession either by the discharge of his obligations or by the decision of a Court of justice. If the mortgagee has not possession, the settlement is to be made with the proprietor in possession and the mortgagee is in like manner to succeed to the lease in case of possession being subsequently adjudged to him.

In what manner the settlement is to be made in cases of lands being mortgaged.

XXIX. If after due enquiries and reference to the mofussil records the proprietors of any land cannot be ascertained, the lands are to be held *khas pro tempore* and the same mode is to be adopted with regard to absentees. In both cases an advertisement is to be issued requiring the proprietors or absentees, to attend within a period of six months, and, if they should not be forthcoming at the expiration of that period, a settlement is to be made with a farmer for ten years, allowing a preference to the *zemindár* nearest in situation on his agreeing to the *jamá* and the terms that may be prescribed by the Collector.

Rule to be observed when the proprietors of any land cannot be ascertained, and in cases of absentees. The settlement of their lands how to be made in the event of their not being forthcoming.

XXX. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession under an express declaration, that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

Settlement of disputed estates to be made with the proprietor in possession.

XXXI. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the *Díwání Adálat* of the *zillah*: but, if they should not agree to a manager, the lands are to be held *khas*, and the surplus produce after discharging the revenue is to be kept in deposit until the right of property shall be adjudged.

Mode to be observed in cases where none of the claimants shall have been previously in possession.

XXXII. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the *Díwání Adálat*, and the settlement is to be made in the mean time for the lands in possession of the disputing parties respectively.

Rules for the settlement, in cases where disputes exist concerning the boundaries of lands.

XXXIII. The special rules for fixing the assessment of the three provinces respectively adapted to the local circumstances of each commence with section 68, and the following general rules have been prescribed in addition thereto.

Rules for fixing the assessment pointed out.

Allowances of *kázis* and *kánúngos*, and public pensions paid by landholders, to be added to the *jamá*, and in future paid by the Collectors under certain restrictions.

XXXIV. The allowances of the *kázis* and *kánúngos*, heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders are to be added to the amount of the *jamá* and in future paid by the Collectors of the revenue of the several *zillahs*, on the part of Government, under the rules and restrictions laid down for their guidance with regard to such payments in the resolutions passed by the Governor-General in Council on the 10th June 1791, and re-enacted with modifications by Regulation XXIV, 1793.

The assessment to be fixed exclusive of *sayar*, with an exception to the collections in the *gunjes* &c. in Calcutta, and to certain other articles of collection confirmed.

XXXV. The assessment is to be fixed exclusive and independent of all duties, taxes, and other collections, known under the general denomination of *sayar*; the collections made in the *gunjes*, *háts* and *bazârs* situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of *gunjes*, *bazârs* and *hâts*, by the resolutions passed by the Governor-General in Council on the 11th of June 1790.

[*Sayar* means "remaining" "the remainder," and was applied by the Mahomadan Government to the *remaining* sources of revenue besides the land tax, such as customs, transit duties, licences, fees, house-tax, market-tax, &c. &c. The imposition and collection of such internal duties had been from time immemorial the exclusive privilege of Government (see Preamble to Reg. XXVII of 1793) not exercisable by any subject without its express sanction. This sanction, however, had been too generally allowed to the zemindárs, who had imposed numerous and vexatious internal duties for their own advantage. In order to improve trade, which was injured if not destroyed by the multiplicity of these petty taxes, and also to provide a means of augmenting the public revenue (should the exigencies of Government render such a course necessary) without increasing the land tax, it was resolved to resume and abolish the *sayar*, and this was accomplished under the provisions of Reg. XXVII of 1793, all taxes and duties levied by private individuals or otherwise than under the direct authority of Government being abolished and prohibited for the future.]

Assessment also to be fixed exclusive of all existing *lakhiráj* lands.

XXXVI. The assessment is also to be fixed exclusive, and independent of all existing *lakhiráj* lands, whether exempted from the *khiraj* (or public revenue) with or without due authority.

The above rule not meant to include *malikana* lands in Bahár, or private lands of *zemindárs* and *tálukdárs* in Bengal and Midnapore.

XXXVII. The above exception, however, is not meant to include the *malikana* lands in Bahár, or the *nankar*, *khamar*, *nij-jote*, and other private lands of the *zemindárs* and independent *tálukdárs*, or other actual proprietors of land in Bengal and Midnapore, regarding which the following rules have been prescribed.

[As to *nankar*, see *ante*, p. 51 note. As to *khamar*, *nij-jote*, see *ante*, p. 51 note.]

Malikana lands in Bahár to be re-annexed, and the proprietors required to engage for the

XXXVIII. Where the *zemindárs*, or other actual proprietors of land in Bahár have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as *malikana*, the latter is to be re-annexed and the *zemindárs* or other actual proprietors are to be required to engage for the

whole of their estates including the *malikana* lands; unless such lands be held as *malikana* under grants made or confirmed by the Governor-General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged and given in possession to the mortgagee in which case they are to be exempted from this rule. Grants for *malikana* lands not made or confirmed by the supreme authority of the country are declared invalid by the Regulations passed on the 8th August 1788. If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

whole of their estates including these lands.

[As to *malikana*, see *ante*, p. 51 note; cl. 1, s. 5, Reg. VII of 1822; s. 2, Reg. IX of 1825; and s. 11, Reg. IX of 1833.]

XXXIX. The *nankar, khamar, nij-jote* and other private lands appropriated by the *zemindárs*, independent *talúkdárs* and other actual proprietors of land in Bengal and Orissa to the subsistence of themselves and families, shall be also annexed to the *malguzárí* lands, and the ten years' *jamá* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified upon the terms on which they have hitherto possessed them, provided they shall prove to the satisfaction of the Board of Revenue that they held them under a similar tenure previous to the 12th August 1765, the date of the grant of the *Díwání* to the Company and have hitherto been permitted to keep possession of them whenever their *zemindárís* or estates have been held *khas* or let in farm, but not otherwise. In the event of such proof and of their availing themselves of the option above given to retain possession of their private lands, a deduction adequate to the neat produce of such lands is to be made from the amount of the allowance fixed for excluded proprietors by section 44.

Nankar, khamar, nij-jote, and other private lands of the proprietors in Bengal and Orissa, to be annexed to the *malguzárí* lands and the *jamá* fixed upon the whole. Modification of the rule.

XL. The above consolidation of the *malguzárí* and private lands is also to be made in the *táluks* continued under the proprietors on whom they have hitherto been dependent; not however with a view of increasing the rents of the *tálukdárs*, but in order to make the whole of the lands composing their *táluks* answerable for their proportion of the public assessment allotted thereon.

The consolidation of the *malguzárí* and private lands to be made also in *táluks* continued under proprietors on whom they have been hitherto dependent. Motive of this consolidation.

XLI. The *chakarán* lands or lands held by public officers and private servants in lieu of wages are also not meant to be included in the exception

Chakarán lands to be annexed to the *malgu-*

zárí lands, and declared responsible for the public revenue.

contained in section 36. The whole of these lands in each province are to be annexed to the *malguzárí* lands, and declared responsible for the public revenue assessed on the *zemindáris*, independent *táluks* or other estates, in which they are included, in common with all other *malguzárí* lands therein.

[The auction-purchaser of a *patní táluk* sued to recover possession of certain lands within the *táluk*, held by A, who paid no rent either to Government or to the *tálukdár*, but was liable to perform the services of a *chaukídár*. The auction-purchaser, who (it was assumed) had, as *patnídar*, become entitled to the same rights in the subject-matter of the suit, which had been enjoyed by the *zemindár*, alleged that A had ceased to perform any *zemindárí* services, that he (plaintiff) had appointed another person to perform such services and was therefore entitled to resume possession of the lands. Government having been made a party to the suit filed an answer and insisted that the land was not *mal sarúnjámí* (service-land for taking care of the *mal* or *zemindár's* property) but *chakarán* land for the performance of Police or *chaukídárí* duties; and that the *zemindár* had no power to interfere with the property as long as the chaukídárs performed their various duties. The real issue was therefore as to the nature of the tenure on which the land was held. One side contended that the holder of the lands was liable to the performance of none but *zemindárí* duties; the other that he was liable to the performance of none but Police duties. A little before the Government had filed its reply to the suit, the Faujdárí or Criminal Court of the District (East Burdwan) had issued an order "that a *parwana* be sent to all the darogahs of this jurisdiction, that the chaukídárs under their control be instructed not to attend to *zemindárí* duties." The following are the heads of the judgment of the Privy Council:—Before the period of British rule, the zemindárs were entrusted as well with the defence of the territory against foreign enemies as with the administration of law and the maintenance of peace and order within their districts. For this purpose they employed not only armed retainers, but also a large force of *thanadars* or a general Police force and other officers in great numbers under the name of *chaukídárs*, *paiks*, &c. as well for the maintenance of order in particular villages and districts as for the protection of the property of the *zemindár*, the collection of his revenue and other services personal to the zemindár. All these officers were servants of, appointed by, and removable by, the zemindár, and were in many cases remunerated by the enjoyment of land held at a low rent or rent-free. The lands so enjoyed were called *chakarán* or service-lands, were of great extent in Bengal at the time of the Decennial Settlement, and were, by the effect of that settlement, divided into two classes: I *Thanadarí* lands, which, by Cl. 4, S. 8, Reg. I of 1793, were made resumable by Government; and II All other *chakarán* lands, which, by S. 41, Reg. VIII of 1793, were, whether held by public officers or private servants in lieu of wages, to be annexed to the revenue-paying lands and declared responsible for the public revenue assessed on the whole estate. The lands in dispute in the particular case were admitted to fall within the second class. Therefore, if resumable at all, they were resumable by the *patnídar*; and if the services, on which they were held, were Police services at all, they were the services of chaukídárs or village watchmen, in the performance of which duties the zemindár had an interest, inasmuch as they protected his property. The public also had an interest in the maintenance of these officers, and in the peace and good order which they were employed to preserve; and the Government, as representing the public, retained therefore a strict control over them. Various Regulations were passed to effect this object, but there is nothing in these Regulations, which takes from the zemindár the right of nomination of these officers, or which deprives him of the power of himself removing them and appointing other fit persons in their

stead, and nothing which deprives him of the right of requiring from the *chaukídár* such services as he was bound by law or usage to render to the *zemindár*. It might well happen that, either by long usage or by the original contract when the lands were granted, the village watchman became liable, in addition to his Police duties, to the performance of other services personal to the zemindár, as the collection of revenue and the like. The rules laid down for the Decennial Settlement appeared to recognize the interests both of the *zemindárs* and the public in lands of this description. In the particular case it was found by the District Judge, and the evidence clearly proved, that the duties performed by the persons in possession of the lands, both before and since the Decennial Settlement, had been partly Police and partly *zemindárí*. It might be that, although the lands in question had been held by a *chaukídár* liable to perform both services, yet there had been no legal *appropriation* of the lands for that purpose. There were not wanting however circumstances sufficient to warrant the inference that the lands were at the time of the Decennial Settlement appropriated and still remained liable to the maintenance of such an officer, and that the *tálukdár* had no right to take possession of them for his own purposes, and hold them discharged of the obligation to which they are subject. As it had been established by evidence that the *chaukídárs* of the district had always been accustomed to render services personal to the zemindár as well as perform Police duties, the order of the Faujdárí Court forbidding the performance of zemindárí services by the chaukídárs was without warrant in law. Both parties had evidently insisted on more than they were entitled to. The holder of the lands was not liable to perform *zemindárí* duties only, nor Police duties only, but both.—Owing to the forms of the pleading, there was some difficulty as to the course to be taken, but finally the judgment was affirmed with a declaration that the lands in question were to be considered as appropriated to the maintenance of a chaukídár or village watchman in the táluk, that the right of appointing such officer belongs to the tálukdár, and that such officer is liable to the performance of such services to the tálukdár, as, by usage in the *zemindárí* of Bardwan, *chaukídárs* have been accustomed to render to the *zemindár*—*Jai Kissen Múkherjí* v. *The Collector of East Bardwan and another*, 10 Moo. In. Ap. 16. As to the maintenance of chaukídárs in cities, towns, and villages, see Acts XX of 1856, XXII of 1871, and VI (B.C.) of 1870.

See also *Forbes* v. *Mir Mahomed Taquí*, 13 Moo. In. Ap. 438, in which case a grant in the nature of a *jagír* made in consideration of repressing the inroads of wild elephants, and partly as a reward for services previously rendered in this respect, was held "to differ widely from the ordinary *chakarán* lands contemplated" by this section; and, although the land included in the grant was found to be part of the *mal* land of the *zemindárí* and included in the permanent settlement, yet the grant was decided not to be resumable at the suit of the zemindár, even though there was no further occasion for services in repressing the inroads of wild elephants.]

Process to be observed when the landholders decline engaging for the *jamá* proposed to them.

XLIII. In the event of any proprietor declining to engage for the settlement of his lands at the *jamá* proposed to him, the Collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue. That Board is to determine the proper assessment, after making such further enquiries as they may think necessary; and the objecting proprietor is to be required to engage for such assessment without further delay; and, in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held *khas*, as the Board of Revenue may in each instance think most expedient.

[See S. 3, Reg. VII of 1822, *post*.]

Settlement to be made by proprietors with the *tálukdárs* continued under them, and in what manner.

XLVIII. The settlement having been concluded with the *zemindárs*, independent *tálukdárs* and other actual proprietors of land, they are to enter into engagements with the several dependent *tálukdárs* continued under them respectively, and consequently paying revenue through them, for the same period as the term of their own engagements with Government, provided the *tálukdárs* will agree to such revenue, progressive or otherwise, as the *zemindár* or other actual proprietor of land may be entitled to demand from them; and the several *zemindárs* or actual proprietors of land, to whom this rule may be applicable, are required to deliver to the Collector within three months after the conclusion of the settlement with them, a record of the engagements entered into between them and the *tálukdárs* dependent on them, specifying their names and *táluks* and the *jamá* payable by each.

[The provisions of this section were subsequently modified by S. 3, Reg. V of 1812; and see also S. 2, Reg. XVIII of 1812. The fact of a *tálukdár* not having been registered under this section would not deprive him of the benefit of S. 51 of this Regulation—*Nilmani Singh Bahadur* v. *Ram Chakravartti and another*, 21 W. R. 439.

A temporary settlement made with a dependent tálukdár was placed in abeyance by the fact of the Collector's taking the collections into his own hands. *Held* that this act of the Collector was not one of dispossession from which limitation could be calculated, as it did not necessarily involve ejectment or repudiation of the former tálukdárí right or tenure—*Múlví Meianudín* v. *Ram Maní Chaudhrain*, 7 W R. Civ. Rul. 182; 3 R. C. & C. R. Civ. Rul. 125.

A Government settlement, whether permanent or farming, so far from destroying the rights of a tálukdár, always preserves them, if there really be a dependent tenure. The most distinct and clear instructions are given on this point in all the Circular Orders of the Revenue Authorities in their rules for the conduct of Revenue Settlements—*Haro Persad Bhattacharjya* v. *Bheirub Chandra Muzimdár, &c.* 8 W. R. Civ. Rul. 391; 4 R. C. & C. R. Civ. Rul. 200; *Baroda Kanth Laha, &c.* v. *Gobind Chandra Gúhú, &c.* 7 W. R. Civ. Rul. 50. (It was here held that the purchaser of an *ausat* (subordinate dependent) *táluk* in Backergunj could not, under S. 32, Act XI of 1859, set aside certain *hawala* and *nim-hawala* tenures which had been admitted by the Revenue Authorities from the time of the first settlement.)

Lands situate within a *zemindárí* are *primâ facie* to be considered as part of the *zemindárí*, and it is for those who insist on the separation of these lands from the general lands of the *zemindárí* and on their settlement as a *shikmí táluk* to establish their title. The fact of a *shikmí táluk* not being mentioned in the decennial or quinquennial settlement, and of the lands comprised therein being included in the decennial settlement as part of the *zemindárí* for which the *zemindár's* land revenue was assessed, does not afford any very strong inference against the existence of such a *táluk*. If it had been an independent *táluk*, it would have been liable to direct assessment by the Government and would have been the subject of assessment on the *tálukdár*; but being only a *shikmí táluk*, paying rent to the zemindár, the *tálukdár* was not required to mention it, nor was it necessary for the zemindár to do so—*Wise and others* v. *Bhúbun Mayí Debya and another*, 10 Moo. In. Ap. 165.

The word *talúk primâ facie* imports a *permanent* tenure—*Krishna Chandra Gupto and others* v. *Mír Safdar Ali*, 22 W. R. 327.]

XLIX. It is to be understood, however, that *istimrardars* (*mukarrarídars*) of the nature of those described in section 18, who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase either by the officers of Government or by the *zemindár* or other actual proprietor of land, should he engage for his own lands. With regard to such *istimrardars* also, as have not held their lands at a fixed rent for so long a period, if the *zemindár* or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

Restrictions regarding the assessment of a certain description of *istimrardars* who are to be considered as leaseholders.

L. This last restriction imposed on the *zemindár* or other actual proprietor of land in section 49 is not to be considered to preclude the officer of Government or farmer, in the event of the *zemindárí* being held *khas* or let in farm, from assessing such *istimrardars* according to the general rate of the district.

To what the last restriction imposed on actual proprietors of land in the preceding section is not to extend.

LI. The following rules are prescribed to prevent undue exactions from the dependent *tálukdárs* :—

Further rules to prevent undue exactions from the *tálukdárs*.

First.—No *zemíndár* or other actual proprietor of land shall demand an increase from the *tálukdárs* dependent on him, although he should himself be subject to the payment of an increase of *jamá* to Government, except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the *tálukdár* holds his tenure, or that the *tálukdár*, by receiving abatements from his *jamá*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Proprietors not to demand an increase from such *tálukdárs*, excepting in the cases herein specified.

Second.—If in any instance it be proved that a *zemindár* or other actual proprietor of land exacts more from a *tálukdár* than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction with all costs of suit to the party injured.

Penalty for proprietors making exactions from *tálukdárs*.

[The above provisions are modified by S. 15, Act X of 1859, which is as follows :—"No dependent tálukdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who, in the Provinces of Bengal, Bahár, Orissa and Benares holds his táluk or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement shall be liable to any enhancement of such rent, anything in S. 51, Reg. VIII of 1793, or in any other law to the contrary notwithstanding." See also S. 16, Act X of 1859, and the following cases :—*Nabo Kishore Bose* v. *Pandul Sirkar and others*, 8 W. R. Civ. Rul. 312 : *Babú Dhanpat Singh and others* v. *Gúman Singh and others*, 9 W. R. Priv. Coun. 3: *Mussamat Mohamaya Dasí* v. *Mussamat Daya Mayí Chaudhrain*, 7 W. R. Civ. Rul. 63 ; 3 R. C. & C. R. Civ. Rul. 76 : *Haro-*

nath Rai and others v. *Gobind Chandra Dutt*, II L. R. I. A. 193 & 23 W. R. 352 (Here their Lordships of the Privy Council said :—" To bring the case within that section (15 of Act X of 1859), he must hold his tenure otherwise than under a terminable lease, and he must also hold at a fixed rent, which has not been changed from the time of the Permanent Settlement. It should be remarked that S. 15 does not render liable to enhancement dependent tálukdárs, who were exempt-by S. 51, Reg. VIII of 1793, but exempts from enhancement, amongst others, dependent tálukdárs, who, under the provisions of that section, might otherwise be liable to enhancement.")

Are dependent tálukdárs protected by the above provisions from an increase of rent in respect of *accretions* by alluvion to their táluks? This difficult point was discussed in the case of *Jaggat Chunder Dutt and others* v. *Panioti and others*, which came before the Calcutta High Court three times in appeal, and once on review. Plaintiffs sought to enhance the rent of the defendants, alleging that the latter held a temporary (*gair-bandobasti*) zimma táluk within their estate, that by the action of the river a new *chur* had been formed, which defendants held, thereby occuping 40 droons of land in excess of the zimma.

Defendants pleaded that these 40 droons were not an accretion, but a portion of the zimma, which had diluviated and re-formed on its original site. The Lower Appellate Court held that this suit could not lie, as brought under Act X of 1859. The High Court on appeal reversed this decision and remanded the case for re-trial on the merits, whereupon the Lower Court found among other points that the 40 droons of land was an *accretion* and not a *re-formation*. On a second appeal to the High Court, it was urged that such accretions, as an increment to the original tenure, were protected, and that, with advertence to S. 4, Reg. XI of 1825, a single demand of rent could only be made for the whole estate, and, therefore, there could be no increase. As to this latter contention, the High Court remarked that so far from this section saying that accretions to a subordinate tenure shall be rent-free, it expressly declared them liable for rent, if payable by usage or contract. The case was then remanded to try, amongst other points, 1*st*, whether defendant had proved his right to hold the zimma tenure *at a fixed rent* under Ss. 15 and 16 of Act X of 1859. 2*nd*.—If the zimma tenure were held at a fixed rent, is it, according to the custom of the country, liable to any, and if so, what increase on account of alluvion? (6 W. R, Act X Rul. 48.) The Lower Appellate Court decided that defendants had proved themselves entitled to the benefit of the presumption of law in S. 16, Act X of 1859, and were therefore entitled to hold the zimma tenure at a fixed rent. It also found (apparently not trying the exact issue laid down on remand) that there was no custom proved under which the accreted land could be held rent-free; and held, that, in the absence of proof of such a custom, the tenant was liable to pay rent therefor. The High Court remarked that the burden of proof had been thus wrongly put upon the defendants, who held the zimma tenure; yet as plaintiff had sued for a kabúlyat on an alleged right to assess the accreted land, it was for him to have proved this allegation. On this ground, judgment was given for defendants. The Court further proceeded to hold that, reading together S. 51, Reg. VIII of 1793, S. 4, Reg. XI of 1825, and S. 15, Act X of 1859, the zemindár was not entitled to assess (*i.e.* to claim an increase of rent in respect of) the accretions to the defendant's zimma tenure. (8 W. R. Civ. Rul. 427). A review of judgment was asked for, and the points raised above were argued. The Court refused to alter their former judgment; but this judgment was based mainly on the first of the above grounds. Mitter, J. expressly said that his remarks as to the accretion being liable to rent were to be regarded as an *obiter dictum*. Bayley, J. however observed that S. 17, Act X of 1859, could have no bearing upon the case, as being applicable to raiyati tenures only, and not to those of a táluki character; that he was not shown, nor was

he aware of any law, except S. 51, Reg. VIII of 1793, which provides for the assessment of such accretions; that Cl. 1, S. 4, Reg. XI of 1825 leaves the substantive law on this point exactly as it was before; and that holders of the nature of the defendants are not liable under S. 15, Act X of 1859, until it be shown that their tenures were created subsequent to the decennial settlement, and held not at a fixed jamá (9 W. R. Civ. Rul. 379). See also *Babú Gopal Lal Thakúr* v. *Kumar Ali*, 6 W. R. Act X Rul. 85, where the *talúk* having been recently created, and therefore not protected by S. 15, Act X of 1859, the Court observed that the question would mainly depend upon the engagements of the parties.

A *zemindár* sued to enhance the rent of a *tálukdár*, and in 1860 the late Sádr Court affirmed his right to enhance, though, from his failure to serve the notice required by law, the tálukdár was not then liable to pay rent at any enhanced rate. He then proceeded under Act X of 1859 to enforce payment of an enhanced rate of rent, grounding his right to do so on the decree of the Sádr Court. It was held that he could not succeed, the High Court remarking as follows:—"We think that the right of the plaintiff suing under Act X of 1859 with this decree in his hand, stands no higher than the right of any other landlord who, previous to the passing of the Act, would have had a good right to enhance, but whose right, by the passing of the Act, was taken away. He has taken no effectual steps by which the rent has been varied since the decennial settlement, and the Legislature has stept in and finally protected the tálukdár," *Govind Chandra Datt* v. *Harnath Rai, &c.* 1 I. Jur., 52, upheld on appeal by the Privy Council, II L. R. I. A. 193 & 23 W. R. 353.

A notice of enhancement under S. 13, Act X of 1859, is a notice to be served on a raiyat having a right of occupancy. In the case of a dependent tálukdár the plaintiff must proceed under S. 51, Reg. VIII of 1793, and would be entitled to succeed only upon the grounds contained in that section, and not on those laid down in S. 17, Act X of 1859. A suit, brought upon grounds of enhancement which cannot be sustained, was held to be informal and was dismissed —*Brojo Súnder Mitter Mazímdár* v. *Kali Kishore Chaudhri and others*, 8 W. R. Civ. Rul. 496. But a notice, specifying the rent and stating the ground upon which enhancement is claimed, ought to be served on tálukdárs also—*Nilmani Singh* v. *Ram Chakravartti*, 21 W. R. 439; and see *Srimati Jannaba* v. *Grish Chandra Chakravartti*, 7 B. L. R., App. 47, and *Nobo Kishan Bose* v. *Mazamuddin Ahmed Chaudhri*, 19 W. R. 338.

The rates payable by tálukdárs and those payable by cultivating raiyats are different, and the former cannot be enhanced so as to be equal to the latter—*Haro Súndarí Chaudhrain and others* v. *Anand Mohun Ghose Chaudhrí and others*, 7 W. R. Civ. Rul. 459.

Kadímí or old (*i.e.* occupying by old hereditary descent) *raiyats* do not fall within this section, and their Lordships of the Privy Council expressly said that they were not prepared to affirm a remark of the Sádr Díwání Adálat that the analogy of this section extends to them—*Ram Chandra Dutt* v. *Jagesh Chandra Dutt*, 12 B. L. R. 232. Nor does the section apply to táluks held under writings, sanads, or other documents granted by proprietors, which do not expressly transfer the property in the soil—*Satyanand Ghosal* v. *Haro Kishore Dutt*, 12 W. R. 474.

See also on the subject of enhancing the rent of dependent *táluks* the following cases:—*Ram Kúmar* v. *Khaja Abdúl Gani and others*, 2 Sev. 840; *Radhica Chaudhrain and others* v. *Bama Sundarí Dásí*, 1 W. R. Civ. Rul. 339: and on appeal to the Privy Council, 4 B. L. R. Priv. Coun. 8, and 13 Moo. In. Ap. 249 (This case was decided under the law in force before the passing of Act X of 1859. It was here held that actual registration under the 48th section is not essential to the existence of a táluk under the 51st section; and that proof of the existence of such a *táluk* at the time of the decennial settlement throws on the

zemindár the burden of proving that the rent is variable. It was remarked in the same case that a suit to enhance rent proceeds on the presumption that a zemindár holding under the perpetual settlement has the right from time to time to raise the rents of all the rent-paying lands within his *zemindári* according to the *pargana* or current rates unless, either he is precluded from the exercise of that right by a contract binding on him, or the lands in question can be brought within one of the exemptions recognized by Bengal Reg. VIII of 1793.) :—*Gopal Lal Thakur* v. *Teluk Chandra Rai*, 10 Moo. In. Ap. 183: *Sasti Charan Dey* v. *Eshan Chandra and others*, 22 W. R. 383.

As to whether a *tálukdár* is entitled to abatement of rent on the ground of diluvion, Peacock, C.J. said :—"We think he is so entitled, unless there was an express stipulation that he should pay, whether the land was washed away or not. If a man stipulates to pay rent, it is clear he engages to pay it as a compensation for the use of the land rented; and independently of S. 18, Act X of 1859, we are of opinion that, according to the ordinary rules of law, if a *tálukdár* agrees to pay a certain amount of rent, the tenant of it is exempt from the payment of the whole rent if the whole of the land be washed away, or of a portion of the rent, if a portion only be washed away"—*Assarudin* v. *Sharashi Bula Debya*, Marsh. Rep. 558.]

Actual proprietors to let their remaining lands under the prescribed restrictions in whatever manner they may think proper.

LII. The *zemindár*, or other actual proprietor of land is to let the remaining lands of his *zemindári* or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following.

[By S. 1, Act X of 1859, such parts of Reg. VIII, 1793, as relate to the adjudication of penalties for the refusal of pattas and receipts for rent and for the exaction of any sums as *abwáb* or in excess of the amount specified in any engagements for the payment of rent, &c. are declared subject to the modifications which follow in that Act.]

Restrictions alluded to in section 52.

LIII. No person contracting with a *zemindár*, independent *tálukdár* or other actual proprietor, or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an *amilnamah* or written commission, signed by such *zemindár*, independent *tálukdár* or other actual proprietor.

Process to be observed to prevent imposition on the *raiyats* under the denomination of *abwab, mahtút, &c.*

LIV. The impositions upon the *raiyats*, under the denomination of *abwáb, mahtút* and other appellations, from their number and uncertainty, having become intricate to adjust and a source of oppression to the *raiyats*—all proprietors of land and dependent *tálukdárs* shall revise the same in concert with the *raiyats* and consolidate the whole with the *asil* into one specific sum. In large *zemindáris* or estates the proprietors are to commence this simplification of the rents of their *raiyats* in the parganas where the impositions are most numerous, and to proceed in it gradually till completed, but so that it be

effected for the whole of their lands by the end of the Bengal year 1198 in the Bengal districts, and of the Fussily and Wallaity year 1198 in the Bahár and Orissa Districts, these being the periods fixed for the delivery of *pattas* as hereafter specified.

[See S. 3, Reg. V of 1812, and *ante*, page 60.]

Proprietors and farmers of land prohibited imposing any new *abwáb* or *mahtút* on the *raiyats*, and penalty in case of disobedience.

LV. No actual proprietor of land, or dependent *tálukdár* or farmer of land of whatever description shall impose any new *abwáb* or *mahtút* upon the *raiyats* under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new *abwáb* or *mahtút* have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

[See note to S. 52 above.]

Variations of *patta* according to articles of produce admitted under certain restrictions.

LVI. It is expected that in time the proprietors of land, dependent *tálukdárs* and farmers of land, and the *raiyats* will find it for their mutual advantage to enter into agreements in every instance for a specific sum for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it is the established custom to vary the *patta* for lands according to the articles produced thereon, and while the actual proprietors of land, dependent *tálukdárs* or farmers of land and *raiyats* in such places shall prefer an adherence to this custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent and amount thereof with the term of the lease and a stipulation, that, in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and, in the event of any new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly.

[See S. 2, Act X of 1859, and *ante*, page 39 note.]

What the *pattas* to be delivered to the *raiyats* are to contain.

LVII. *First.*—The rents to be paid by the *raiyats*, by whatever rule or custom they may be regulated, shall be specifically stated in the *patta*, which in every possible case shall contain the exact sum to be paid by them.

Rule where the rate only can be specified, and for payments in kind.

Second.—In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop, or where they are made payable in kind, the rate and terms of payment and proportion of the crop to be delivered, with every condition, shall be clearly specified.

[See S. 3, Reg. V of 1812.]

Raiyats may demand *pattas* of proprietors of land and farmers, who are also required to grant them. Penalty in case of refusal.

LIX. A *raiyat*, when his rent has been ascertained and settled, may demand a *patta* from the actual proprietor of land, dependent *tálukdár*, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the *pattas*, upon being proved in the Court of *Díwání Adálat* of the *zillah*, shall be punished by the Court by a fine proportioned to the expense and trouble of the *raiyat* in consequence of such refusal. Actual proprietors of land, dependent *tálukdárs* and farmers are also required to cause a *patta* for the adjusted rent to be prepared and tendered to the *raiyat*, either granting the same themselves, or intrusting their agents to grant the same. No farmer, however, without special permission from the proprietor of the lands, or (if the lands form part of a dependent *táluk*) the dependent *tálukdár* shall grant a *patta* extending beyond the period of his own lease; nor shall any agent grant a *patta* without authority from the proprietor, or dependent *tálukdár*, or the manager of disqualified proprietors.

Restrictions on farmers and agents in granting *pattas*.

[It is not within the ordinary scope of the powers of a *naib* or agent of a zemindár to grant pattas or leases at fixed rates of rent. Proof of express authority to do so must be given—*Goluk Mani Debya and others* v. *Asimudin*, I. W. R. Civ. Rul. 56; *Umatara Debya* v. *Pina Bibi*, II W. R. Civ. Rul. 155 (The lease in this case was not at fixed rates. The power of a farmer to grant leases was also discussed here); *Kali Kumar Das* v. *Sheikh Anis*, III W. R Act X Rul. 1; *Annoda Persad Banerji* v. *Chandra Sekhur Deb*, VII W. R. Civ. Rul. 394.

See note to S. 52, above, as to punishment for refusing to deliver pattas. See Ss. 3, 5, 8, 9, and Cl. 1, S. 23, Act X of 1859.]

All existing leases to under-farmers and *raiyats* to remain in force until the period of their expiration. Exception to the rule.

LX. *First.*—All leases to under-farmers and *raiyats* made previous to the conclusion of the settlement and not contrary to any Regulation are to remain in force until the period of their expiration, unless proved to have been obtained by collusion or from persons not authorized to grant them.

No proprietor of land, or dependent *tálukdár*, or farmer of land, shall cancel the *pattas* of *khúdkásht raiyats* except in certain specified cases.

Second.—No actual proprietor of land or farmer, or persons acting under their authority shall cancel the *pattas* of the *khúdkásht raiyats* except upon proof that they have been obtained by collusion; or that the rents paid by them within the last three years have been reduced below the rate of the *nirkbandi* of the *pargana*; or that they have obtained collusive deductions; or upon a general measurement of the *pargana* for the purpose of equalizing and correcting the assessment. The rule contained in this clause is not to be considered applicable to Bahár.

Rules regarding *patwáris*.

LXII. *First.*—The annual revenue to be paid to Government from the estates of the proprietors of land with whom a settlement has been or may be concluded having been declared fixed for ever; and Courts of justice having been established with powers to protect them against all demands exceeding

that fixed revenue, whether made by the officers of Government or other persons, or by the authority of Government itself; and on the other hand the grounds, on which deductions and abatements were heretofore occasionally obtained by proprietors of estates when their *jamá* was liable to frequent variation, no longer existing—neither their rights, nor the value of their property can be affected in future by the real produce of their estates being known. The rules therefore hereafter prescribed regarding *patwáris*, which are framed solely to facilitate the decision of suits in the Courts of Judicature between proprietors and farmers of lands and persons paying rent or revenue to them, and to guard against any diminution of the fixed revenue of Government or injustice to individuals by enabling the Collectors to procure the necessary information and accounts for allotting the public *jamá* upon estates that may be divided agreeably to the principles prescribed in Regulation I, 1793, can be objected to by those proprietors only, who may have it in contemplation in the event of the division or transfer of a portion of their estates to deprive Government of a part of the fixed revenue, or defraud some of the partners in their estates by obtaining a disproportionate allotment of the public assessment on the several shares or to oppress the persons paying rent or revenue to them with impunity by withholding from the Courts of justice the documents necessary to enable them to afford redress to the complainants. It being essential to the security of the public revenue, as well as of private rights and property, and at the same time consistent with the ancient usages of the country and the declarations in the Proclamation announcing the public assessment on the lands fixed for ever, that Government should have the means of counteracting such unjustifiable views, the following rules have been adopted.

Proprietors to appoint a *patwári* to keep the accounts of each village.

Second.—Every proprietor of land, who may not have established a *patwári* in each village in his or her estate, to keep the accounts of the *raiyats*, as required by the original rules for the Decennial Settlement of the three provinces shall immediately appoint a *patwári* in each village for that purpose. All proprietors of estates are to deposit in the *Díwání Adálat* of the *zillah*, the Collector's *kachahri* and the principal *kachahri* in each *mahal* or *pargana*, a list of the *patwáris* in their respective estates, and the names of the villages, the accounts of which they may be severally appointed to keep. The proprietors are to notify every three months to the Court and the Collector all vacancies that may occur and the names of the persons whom they may appoint to fill them. The Board of Revenue are empowered to authorize any proprietor to reduce the number of *patwáris* in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate *patwári* for each village.

Board of Revenue may authorize proprietors to reduce the number of *patwáris*.

Patwáris to produce all accounts required by the Courts of Judicature,

Third.—The *patwáris* in every estate are to produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of justice to adjust any suit that may be depending before the Court between the proprietor or farmer of the estate and the *raiyats* or any persons paying rent or revenue to them, or any other suit.

and also for the allotment of the public revenue in the cases herein specified, when required by the Collector.

Fourth.—The *patwáris* in each estate shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them for the allotment of the public revenue agreeably to the principles laid down in Regulation I, 1793, in the event of the whole or any portion of the estates being directed to be disposed of at public sale, or being transferred by any private act of the proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a Court of Judicature, or, where it may be a joint estate, in consequence of the request of one or more of the proprietors. But no Collector is to require a *patwári* to attend him and produce his accounts, but for the purposes above mentioned, or in any other cases, in which they may be expressly empowered to require them by any Regulation printed and published in the manner directed in Regulation XLI, 1793. If any Collector shall require the *patwári* of any village or villages to attend him and produce the village accounts for purposes or in cases in which he may not be authorized to inspect them, the Court of *Díwání Adálat* upon the circumstances being represented to it by the proprietor of the estate is empowered to make an order to prohibit the Collector requiring the accounts and, in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor of the estate of such sum as to the Court may appear proper and to levy the fine in the mode in which the Courts are empowered to levy fines from the Collectors in the suits described in section 33, Regulation XIV, 1793.

Cases in which the Collectors are prohibited requiring accounts from *patwáris* and,

penalty for breach of the prohibition.

How the Collectors and the Courts are to compel the attendance of *patwáris*.

Fifth.—When a Collector shall require the attendance of a *patwári* for the examination of his accounts either before him or any officer whom he may depute for the purpose, he is to serve such *patwári* with a written notice under his official signature and the seal of the *zillah* to attend with the accounts required, which are to be particularized in the notice. If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the Collector for the omission, the Collector is authorized to represent the circumstances through the *vakíl* of Government to the Court of *Díwání Adálat* of the *zillah*, the Judge of which, provided there shall appear to him sufficient cause for so doing, may order such *patwári* to be committed to close custody until he produces the accounts. The Courts are to observe the same process with

patwáris who may omit to attend with their accounts when required for the adjustment of any matter or dispute depending before the Courts.

Sixth. *Patwáris* shall be required to swear to the truth of the accounts they may produce, when deemed necessary, and in the event of the Collector having occasion to proceed in person, or to depute an officer to examine any village accounts on the spot, the Judge, upon application being made to him for that purpose by the Collector through the *vakíl* of Government, may grant to him, or to such officer, a commission to swear the several *patwáris* whose accounts are to be inspected, inserting in the commission the name of each *patwárí* to be sworn. If the Collector shall have occasion to examine the accounts of a *patwárí* at the station at which the Court may be established, he is to cause him to be sworn before the Court, if he shall judge it necessary to require him to make oath to the truth of his accounts.

Patwáris may be required to swear to the truth of their accounts.

Seventh. If a *patwárí* shall have sworn to the truth of any account that he may have been required to produce before a Court of Justice for the purpose of deciding any matter before the Court, and the accounts shall afterwards be found to have been fabricated, or altered, or not to be the true accounts, the Judge of the Court is empowered to commit him to be tried for perjury before the Court of Circuit.

Patwáris liable to be prosecuted criminally for swearing to false accounts in a Court of Judicature:

Eighth. If a *patwárí* shall have been sworn before a Judge or before a Collector or the Officer of a Collector to any accounts that he may have been required to produce before the Collector, or his Officer, in a case in which the Collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated or altered, or not to be the true accounts, the Collector is empowered to employ the *vakíl* of Government to prosecute such *patwárí* for perjury. In the cases specified in this and the preceding clause, if it shall be proved to the satisfaction of the Court that the accounts were fabricated, altered or changed by the orders, or with the knowledge or connivance of the proprietor or farmer of the estate, the Court shall impose such fine upon the proprietor or farmer so offending, as may appear to it proper, upon a consideration of the case and the situation and circumstances of the offender.

Or before a Collector.

Punishment for proprietors or farmers concerned in falsifying the accounts.

Ninth. Upon the accounts of any village being ordered to be produced, if it shall be found that no *patwárí* has been appointed to keep the accounts of the *raiyats*, in conformity to the rules prescribed in clause second. the Court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor for the first offence in such sum as it may judge proper, upon a consideration of his or her situation and circumstances and the nature

How proprietors omitting to appoint *patwáris* are to be proceeded against.

of the case; and for the second offence, twice the amount of the fine for the first; and, for the third and every subsequent offence, double the amount of the fine for the preceding one. If the accounts shall have been required by the Collector, he is to order the *vakíl* of Government to sue the proprietor on the part of Government under this section, for a breach of the rule in clause second.

Above rules regarding *patwárís* applicable also to dependent *taluks*.

Tenth. The rules contained in this section are hereby declared equally applicable to dependent *táluks*, as to estates paying revenue immediately to Government.

[This section was repealed by Ss. 1 and 2, Reg. XII of 1817 in so far as regards the Ceded and Conquered Provinces, the Provinces of Bahár and Benares, the District of Cuttack, the Pargana of Puttaspore and the several purganas dependent on it. In so far as regards Bengal it has never been directly repealed.]

Rules for adjusting the *mofussil kistbandis*.

LXIV. The proprietors of land, dependent *tálukdárs* and farmers of land of every description are to adjust the instalments of the rents receivable by them from their under-renters and *raiyats*, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

Proprietors and dependent *tálukdárs*, restricted from entering into engagements contrary to this Regulation.

LXV. No proprietor of land, or dependent *tálukdár* shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

Landholders and farmers of land of every description, and their dependents, prohibited interfering in any matters coming within the cognizance of the Civil or Criminal Courts of Judicature, or the Magistrates.

LXVI. *Zemindárs*, independent *tálukdárs*, and other actual proprietors of land, dependent *tálukdárs*, farmers of land holding farms immediately of Government, and all persons farming lands of the abovementioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents, and *raiyats* are prohibited from taking cognizance of, or interfering in matters or causes coming within the jurisdiction of the Courts of Civil Judicature, or the Courts of Circuit, or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature, in which they may be prosecuted for the act, may deem it proper to impose and award.

Restrictions in the *kabúliyats* not repealed by any Regulation, to be considered in force.

LXVII. *First.* Such of the restrictions on actual proprietors of land and farmers who hold their farms immediately of Government, as are set forth in their respective *kabúliyats* and are not repealed by any Regulation printed and published in the manner directed in Regulation XLI, 1793, are to be considered in full force.

Second. Actual proprietors of land are to be considered to have been entitled between the period of the conclusion of the settlement with them, and the 22nd March 1793, the date of the Proclamation declaring the Decennial Settlement perpetual inserted in Regulation I, 1793, to borrow money on the credit of their lands, and to sell or otherwise dispose of them, subject to the rules and restrictions existing when the transaction took place; and all *bonâ fide* transfers of *zemindáris* or other estates, or *táluks* made by any actual proprietor of land, or dependant *tálukdár*, subsequent to the 8th June 1787, are to be deemed valid, although they shall have taken place without the sanction of the Board of Revenue required to be obtained by the Regulations passed on that date; and all actual proprietors of land and dependent *tálukdárs* are to be held to have been at liberty from the 29th October 1790, to borrow money without the sanction of the Board of Revenue.

Proprietors of land entitled to borrow money, or sell their estates of their own authority, from the date of the settlement being concluded with them.

Bonâ fide transfers of estates or *táluks* made subsequent to the 8th June 1787, to be held valid.

Third. In the amended code of the rules for the Decennial Settlement passed on the 23rd November 1791, it was declared, that in all instances in which *raiyats* should give security for the performance of their engagements, and such security should be accepted by the landholders or farmers, it should not be lawful for the two latter to attach the crop of the former, unless the security should have absconded, and other good security not have been tendered in consequence. This rule was annulled by the Regulations passed by the Governor-General in Council, on the 20th July 1792, which have been re-enacted with alteration and amendments by Regulation XVII, 1793.

Rules regarding the recovery of arrears of rent or revenue from *raiyats*, or under-farmers, contained in Regulation XVII, 1793.

Fourth. In the original rules for the Decennial Settlement, the landholders were declared responsible for the peace of their districts and bound to act agreeably to such Regulations on that head, as might afterwards be enacted. This rule was superseded by the Regulations passed by the Governor-General in Council on the 7th December 1792, which have been re-enacted with alterations and amendments by Regulation XXII, 1793.

Proprietors and farmers of land deprived of police jurisdiction.

Fifth. In the original rules above-mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary. This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.

[See S. 14, Reg. VII of 1822.]

Collector to attend to the spirit of the rules in this Regulation, where they may not be applicable to particular districts. Restrictions under which this rule is to be applied.

In what cases the settlement was to be concluded under the Regulations which existed prior to the original rules for the Decennial Settlement.

Sixth. It was further ordered in the original rules before mentioned, that, if from want of sufficient materials or information, or on account of other impediments the Collectors should be unable to complete the settlement of all the *parganas* under their charge, agreeably to the prescribed plan, within the year 1197 of the eras current in the three provinces respectively, the settlement was to be made for one year only, according to the principles laid down in the Regulations of the 25th April 1788, for the Settlement of 1196, the year preceding the first year of the Decennial Settlement

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REGULATION XI OF 1793.

A REGULATION *for removing certain restrictions to the operation of the Hindú and Mahomadan Laws with regard to the Inheritance of Landed Property subject to the Payment of Revenue to Government.*—PASSED *by the Governor-General in Council on the* 1*st May* 1793.

A Custom, originating in considerations of financial convenience, was established in these provinces under the native administrations, according to which some of the most extensive *zemindáris* are not liable to division. Upon the death of the proprietor of one of these estates, it devolves entire to the eldest son or next heir of the deceased to the exclusion of all other sons or relations. This custom is repugnant both to the Hindú and Mahomadan laws, which annex to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals, who would be entitled to a share of the estates in question, were the established laws of inheritance allowed to operate with regard to them as well as all other estates. It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention requisite for bringing into cultivation the extensive tracts of waste land comprised in them. For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates, which may be divided, obviate the objections and inconveniencies that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor-General in Council has enacted the following rules.

[The custom here alluded to was concerned with extensive zemindáris or principalities, not with petty estates.—*Kali Dass Mitter* v. *Harish Chandra Laik*, 2. Sev. 157]

Landed property to descend according

II. If any *zemindár*, independent *tálukdár*, or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally

to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Mahomadan or Hindú law (according as the parties may be of the former or latter persuasion), may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

to the Mahomadan or Hindu law, unless the last proprietor shall have otherwise disposed of it in a manner sanctioned by those laws.

III. If any *zemindár*, independent *tálukdár* or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Mahomadan or Hindú law (according as the parties may be of the former or latter persuasion), shall be respectively entitled to succeed to a portion of the landed property of the deceased under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one or more or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV, 1793, and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Two or more persons succeeding to an estate, to be at liberty to hold it as a joint undivided estate; or one or more or all of the sharers allowed to have separate possession of his or their shares; or two or more of the sharers permitted to hold their shares as a joint undivided estate.

IV. If any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jamá* charged upon the whole estate, which is to be assessed upon such share or shares, is to be adjusted according to the rules prescribed in Section 10, Regulation I, 1793. If the estate is held *khas* or let in farm, the provisions contained in Section 11, Regulation I, 1793 regarding estates so circumstanced, which may be divided, will be applicable to it.

Manager to be appointed to shares held in joint property. Shares held separate how to be assessed.

V. Nothing contained in this Regulation is to be construed to . . . . .

VI. . . prohibit any actual proprietor of land bequeathing, or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July 1794, his or her landed estate entire to his or her eldest son or next heir or other son or heir in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs in exclusion of all other persons or heirs, in the proportions and to be held in the manner, which such proprietor may think proper, provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor-General in Council, nor contrary to the Hindú or Mahomadan law; and that the bequest or

This Regulation not to prevent persons transferring their property in the manner and to whom they may think proper, provided the transfer be not repugnant to the Hindú or Mahomadan law, or the Regulations of the Governor-General in Council.

transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those laws and Regulations respectively do or may require.

[A was the owner of a large *zemindárí*, which had been in his family many generations before the East India Company acquired the Díwání, and was during that period an impartible *Ráj* descending on the death of each successive Rajah to his eldest male heir according to the rule of primogeniture, such heir taking the whole, subject to the obligation of making allowances for maintenance to the junior members of the family. From 1767 A opposed the Company's authority. He was driven out by the Company's troops, and there was a virtual confiscation of his interest and that of his descendants in the property, and the assertion of full dominion over it on the part of the East India Company. In 1790, when the Decennial Settlement was in contemplation or in course of being made, the Government of Lord Cornwallis granted the property to B, a minor and the grandson of A's cousin, whom A had murdered in one of his raids. In 1802, B attained his majority. He was not distinguished by any title from other *zemindárs* till 1837, when the title of *máhárájáh* was first conferred upon him. B had two sons, who predeceased him, each leaving two sons. B's elder son's elder son waived his rights in favor of his eldest son C, whom B desired to succeed him, as heir to an impartible *raj*. B died in 1858, having executed a will in favor of C, and having made a consignment (taslím) of the *raj* to him. On B's death, his other three grandsons claimed three-fourths of the property as descendible *ab intestato* in four equal shares to the four grandsons according to the ordinary course of Hindú law. The will was upheld both by the Calcutta High Court and before the Privy Council. It was moreover *held* by their Lordships of the Privy Council that, in the absence of all evidence to the contrary, the grant to B was a grant of the old *zemindárí* with all its incidents; and that, as no intention was expressed of altering its descendible quality, this quality must be regarded as included in the grant; that the selection of a member of the old family, the next in succession to the excluded line, though it could not make ancestral what was self-acquired (and the property must be held self-acquired by B) was yet strong to show that the intention of Government was to restore the zemindárí, as it had existed before the confiscation; and that the transaction was not so much the creation of a new tenure as the change of the tenant by the exercise of a *vis major;* that Regulation XI of 1793 could not alter the character of the grant made in 1790, nor could it be evidence of the intention of the Government in making a grant three years before the Regulation was passed—*Babu Bírpertab Sahi* v. *Mahárájáh Rajender Pertab Sahí*, 12 Moo. Id. Ap. 1; 9 W. R., Priv. Coun. Ap. 15.

See Reg. X of 1800 *post*, and Notes thereto.]

REGULATION XIX OF 1793.

A REGULATION *for re-enacting with modifications the Rules passed by the Governor-General in Council on the* 1*st December* 1790, *for trying the validity of the Titles of persons holding, or claiming a right to hold, Lands exempted from the Payment of Revenue to Government, under Grants not being of the description of those termed Badshahi or Royal; and for determining the amount of the annual Assessment to be imposed on Lands so held, which may be adjudged or become liable to the Payment of public Revenue.*—PASSED *by the Governor-General in Council on the* 1*st May* 1793.

Preamble. BY the ancient law of the country the Ruling Power is entitled to a certain proportion of the produce of every *bíghá* of land (demandable in money or kind

according to local custom,) unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter. As a necessary consequence of this law, if a *zemindár* made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void from being an alienation of the dues of Government without its sanction. Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution. Previous, however, to the Company's accession to the *Díwání* numerous grants of this description were made not only by the *zemindárs*, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses. Of these grants, some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies. In conformity to the principles which prevailed under the native administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue, made since the date of the Company's accession to the *Díwání* without their sanction, illegal and void. Their lenity, however, induced them to adopt it as a principle, that grants of this description made previous to the date of the *Díwání*, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination. But no complete register of these exempted lands having been formed upon the Company's accession to the *Díwání* nor subsequent to that period, many *zemindárs*, as well as the temporary farmers of the public revenue and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed in consequence of the *zemindárs* refusing to pay the revenue demanded of them, have availed themselves of the abovementioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependents for their own use, dating the deeds for these alienations previous to the Company's accession to the *Díwání*, or procuring them to be registered in the *zemindárí* records as having been alienated prior to that period. Others have made such alienations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circum-

stances might afford, in the event of his title being brought into question. The Governor-General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire: and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded—it was made a rule at the time of forming the Decennial Settlement, and which has been re-enacted by Section 36, Regulation VIII, 1793, that the *jamá* assessed upon the estates of individuals was to be considered as "exclusive and independent of all existing *lakhiráj* lands, whether exempted from the *khiráj* or public revenue with or without due authority;" and by the third clause of the seventh article of the Proclamation contained in Regulation I, 1793, which specifies the conditions under which Government declared the Decennial Settlement permanent, it is expressly stipulated, "that the Governor-General in Council will impose such assessment as he may deem equitable on all lands at present alienated, and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles." The Governor-General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property. It is likewise his wish that the recovery of the dues of Government from those lands, which have been illegally alienated previous to the 1st December 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the enquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree. Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct Register of the lands in the several *zillahs*—held exempt from the payment of revenue the following rules,

containing the rules passed on the 1st December 1790 with modifications, have been enacted.

II. *First.* All grants for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company's accession to the *Díwání*, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to the date above-mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Grants of alienated land, made previous to the 12th August 1765, declared valid, provided the grantee obtained possession before that date, and has since held possession without paying revenue.

Grants made before the *Díwání* of no validity, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue.

Second. In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a grant made previous to the date of the Company's accession to the *Díwání*, and of it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue, and upon receiving the determination of the Governor-General in Council the Court is to decide accordingly. No such claim, however, to hold, exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any *zillah* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years.

Courts to refer to the Governor-General in Council in the event of their entertaining doubts as to the authority of any officer of Government who may have subjected exempted land, granted before the *Díwání*, to the payment of revenue.

Claims to hold, exempted from revenue, lands that have paid revenue for twelve years, not to be heard. Exception.

Third. But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the pay of revenue land now subject to the pay-

No persons not being the original grantees to be entitled to hold

exempt from the payment of revenue lands now subject to the payment of revenue, under grants for life made previous to the *Díwání*.

ment of revenue, under a grant made previous to the Company's accession to the *Díwání*, the writing for which may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant from the nature and denomination of it shall be proved to be a life tenure only according to the ancient usages of the country.

Nor to entitle the heirs of persons now possessing exempted lands under life grants made previous to the *Díwání*, to hold such lands exempt from the payment of revenue upon the death of the present possessor.

Power reserved to the Governor-General in Council, of determining whether life-grants, to which one or more successions of whatever nature may have taken place prior to the date of the *Díwání*, shall be subjected to the payment of revenue or not on the death of the present possessor.

Fourth. Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the *Díwání* to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the ancient usages of the country. Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved to the satisfaction of the Court, that the grant from the nature and denomination of it is hereditary according to the ancient usages of the country. But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the *Díwání*, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor-General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to him proper.

The present possessors of such life-grants prohibited from transferring them, or mortgaging the revenue of them beyond their own lives.

Such life-grants, if confirmed by Government or its officers, not to be subject to the payment

Fifth. The present possessors of lands now exempt from the payment of revenue under such life grants made previous to the *Díwání* and declared by the preceding clause not to be hereditary are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void. It is to be understood, however, that if any such life grants shall have been confirmed as hereditary tenures by Government or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause. If doubts shall arise in any Court as to the competency of the authority of any officer of

Government to confirm any such life grant as hereditary, the Court is to suspend its judgment and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not; and the Court, upon receiving the determination of the Governor-General in Council, is to decide accordingly.

of revenue on the death of the present possessor.

III. *First.* All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765 and previous to the 1st December 1790, corresponding with the 18th Aughun 1197 Bengal era, the 10th Aughun 1198 Fussily, the 18th Aughun 1198 Willaity, by any other authority than that of Government, and which may not have been confirmed by Government or by any officer empowered to confirm them, are declared invalid.

[See s. 3, Reg. XIV of 1825].

All grants made or confirmed since the *Diwání*, excepting by the authority of Government or its officers duly empowered, declared invalid.

Second. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the Governor-General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court upon receiving the determination of the Governor-General in Council shall decide accordingly.

Courts how to proceed in the event of their entertaining doubts of the authority of the officer to confirm the grant.

Third. The rule contained in clause first is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Bahár or Orissa,) under the signature of the Chiefs of the late Provincial Councils and the seals of those Councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

Exception to the rule in clause first in favour of the grants herein specified made by the Chiefs of the Provincial Councils,

Fourth. Nor to authorize the subjecting to the payment of revenue any land, the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Bahár or Orissa,) where the quantity of land granted shall not exceed ten *bíghás*, and the produce of it is *bonâ fide* appropriated as an endowment on temples, or to the maintenance of Bramins, or other religious or charitable purposes. The rule in this clause is declared to extend also to all grants of land whatever, not

and also of lands not exceeding ten *bíghás* granted before the dates herein specified, which are appropriated to religious or charitable purposes.

exceeding ten *bighás*, made previous to the *Díwání*, the produce of which may be now so appropriated.

Questions regarding the proprietary right in lands alienated before the 1st December 1790, and adjudged liable to the payment of revenue, to be determined in the *Díwání Adálat*, this Regulation with respect to such lands relating only to the revenue.

IV. This Regulation, as far as regards lands alienated previous to the 1st December 1790, respects only the question whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature to be determined by the Courts of *Díwání Adálat* in the event of any dispute or claim arising respecting it between the grantee and the grantor or their respective heirs or successors. The grantees, or the present possessors, until dispossessed by a decree of the *Díwání Adálat*, are to be considered as the proprietors of the lands with the same right of property therein as is declared to be vested in proprietors of estates or dependent *táluks*, (according as the land may exceed or be less than one hundred *bighás*, as specified in sections 6, 7, and 21,) subject to the payment of revenue, and they are to execute engagements for the revenue, with which their lands may be declared chargeable, either to Government or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government, (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected *khas*,) under the rules for the decennial settlement. If by the decision of the *Díwání Adálat* the proprietary right in the land shall be transferred, the person succeeding thereto is in like manner to be responsible for the payment of the revenue assessed or chargeable thereon.

[See ss. 15—18 of Reg. VII of 1822.]

V. By continuing the proprietary right in the land to the grantee or possessor in the cases specified in the preceding section, instead of dispossessing him of the land altogether agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him. Where the grant may have been made before the Bengal year 1178, or the Fussily or Willaity year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other *malguzárí* lands in the country; and, where the grant may have been made subsequent to the abovementioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue under the rules for the Decennial Settlement as hereafter directed.

To whom the revenue assessed on lands not

VI. The revenue assessable under section 9 on land not exceeding one hundred *bighás* of the measurement that may prevail in the *pargána* wherein it

may be situated, and whether lying in one village or two or more villages, and that may have been alienated by any one grant made previous to the 1st December 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent *táluk* in which the land may be situated, notwithstanding anything said in section 8, Regulation I, 1793; and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement, under which he may pay the revenue of such estate or dependent *táluk* when the land may be so adjudged liable to the payment of revenue. If the estate or dependent *táluk* shall be held *khas* when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to whomsoever the rents and revenue of the estate or *táluk* may be payable, until a settlement shall be concluded for the revenue of it either with the proprietor or a farmer. The land which may be so adjudged subject to the payment of revenue is to be considered as a dependent *táluk*.

exceeding one hundred *bíghás*, alienated before the 1st December 1790, is to belong.

[See cl. 1, s. 3, Reg. II of 1819.]

VII. The revenue assessable under section 8 on land exceeding one hundred *bíghás* of the measurement that may prevail in the *pargána* wherein it may be situated, and whether lying in one village or two or more villages, and alienated by any one grant made previous to the 1st December 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government. The lands specified in this section which may be adjudged liable to the payment of revenue are to be considered as independent *táluks*.

The revenue assessable on lands exceeding one hundred *bíghás*, alienated prior to the 1st December 1790, declared to belong to Government.

VIII. *First.* The amount of the revenue payable from the lands specified in Section 7 is to be adjusted according to the following rules.

Rules for fixing the assessment on the lands specified in section 7.

Second. If the grant shall have been made previous to the Bengal year 1178, or the Fussily or Willaity year 1179 (according as the lands may be situated in Bengal, Bahár or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the *pargána* of a similar description may be assessed. If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation and to pay such *rassad* or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue with the sanction of the Governor-General in Council may deem reasonable. The produce of the land shall

If the grant shall have been made previous to the Bengal year 1178, or the Fussily or Willaity year 1179.

be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor in the event of his agreeing to the *jamá* required of him, and the other moiety by Government; or by such other mode of investigation as the Collector with the sanction of the Board of Revenue may judge advisable. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas* under the rules prescribed in Regulation VIII, 1793. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

[See s. 4, Reg. XIII of 1825.]

If the grant shall have been made subsequent to the Bengal year 1178, or the Fussily or Willaity year 1179.

Third. If the grant shall have been made subsequent to the Bengal year 1178, or the Fussily or Willaity year 1179 (according as the lands may be situated in Bengal, Bahár or Orissa), the revenue or *jamá* to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation VIII, 1793, for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained and the expense of the investigation defrayed in the manner specified with regard to the lands in the preceding clause. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas* under the rules for the Decennial Settlement. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

[See s. 5, Reg. XIII of 1825.]

Rule for fixing the amount of the revenue on the lands specified in section 6.

IX. The rules in the preceding section are to be held applicable to the lands specified in section 6, with this difference that the proprietor, farmer, dependent *tálukdár*, or officer of Government, to whom the revenue may be payable, shall ascertain the produce of the land without subjecting the grantee to any expense; and submit the accounts of it to the Collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue, who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount. If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent *táluk* subject to the payment of such fixed revenue for ever.

Grants made since the 1st December 1790, declared null and void.

X. All grants for holding land exempt from the payment of revenue, whether exceeding or under one hundred *bíghás*, that have been made since the 1st December 1790, or that may be hereafter made by any other authority than that of the Governor-General in Council, are declared null and void, and no length of

possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it. And every person who now possesses or may succeed to the proprietary right in any estate or dependent *táluk*, or who now holds or may hereafter hold any estate or dependent *táluk* in farm of Government or of the proprietor or any other person, and every officer of Government appointed to make the collections from any estate or *táluk* held *khas*, is authorized to collect the rents from such lands at the rates of the *pargána*, nor shall any such proprietor, farmer, or dependent *tálukdár* be liable to an increase of assessment on account of such grants, which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or *táluk* when the grant may be so resumed and annulled. The managers of the estates of disqualified proprietors, and of joint undivided estates are authorized to exercise on behalf of the proprietors the powers vested in proprietors by this section.

Managers of estates to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

[See Note at the end of this Regulation. See s. 8, Reg. IX of 1825.]

XI. Proprietors or farmers of land or dependent *tálukdárs*, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or *táluks*, are to institute a suit for the recovery of it in the Court of *Díwání Adálat*. Any proprietor or farmer of land or dependent *tálukdár* or other person subjecting such lands to the payment of revenue without having previously obtained a judicial decree for that purpose shall be liable to be sued for damages by the parties injured. Where estates or dependent *táluks* may be held *khas*, the right of suing for the recovery of the revenue from the lands specified in Section 6 is to be considered as vested in the party to whom the collections from the estate or *táluk* may be payable. If the estate or *táluk* be held *khas* by Government, the *tehsildár* or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector.

How proprietors and farmers of land, &c. are to recover the revenue payable to them from the lands specified in section 6.

To whom the right of suing for the revenue of the lands specified in section 6 is to belong, if the estate or *táluk* be held *khas*.

[The word "revenue," as here used, refers to the dependent tálukdárs mentioned in s. 6, Reg. VIII of 1793, who were to continue to pay their *revenue* through the zemindárs (Per Peacock, C.J.)—*Mahomed Akil* v. *Asadannissa Bibi*, IX W. R. Civ. Rul. 1.]

XV. The Collectors of the revenue are to defend all suits that may be instituted against Government by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits and the suits which the Board of Revenue may direct the Collector to institute are to be defended and prosecuted by the *vakíl* of Government under the instructions of the Collector; and, in the event of Government being cast either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect,

Collector to defend suits instituted by individuals to hold land exempt from the payment of revenue.

Vakíl of Government to defend or prosecute suits

instituted against, or by Government. Rules to be observed by the Collector in the event of Government being cast wholly, or in part.

all the rules contained in section 30,. Regulation XIV, 1793 and the other sections in that Regulation respecting decisions given against a Collector in any *Zillah* Court in suits instituted against him by any proprietor or farmer of land for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference that the suit from the commencement of it is to be defended or carried on at the expense of Government, and, in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the *Zillah* Court to be preferred to the [Provincial Court of Appeal or against the decision of the Provincial Court to the] Sádr Díwání Adálat [in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein,] they are to report their reasons [in both cases] for not preferring the appeal to the Governor-General in Council, who will direct the cause to be appealed or not in either case, as may appear to him proper.

[S. 30, Reg. XIV of 1793, has been repealed.]

Grants forged or altered in any respect, or antedated, declared void.

XVII. If it shall appear to any Court of Judicature during the course of a trial, that a grant for land to be held exempt from the payment of revenue dated prior to the 1st December 1790 has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

Cases in, and rules under which certain grants are to be transferable.

XX. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise; and all persons succeeding to such grants by whatever mode are required to register their names in the office of the Collector within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser, and, in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

XXI. *First.* When land of the description specified in section 7 shall be finally adjudged liable to the payment of revenue, the land included in the grant and the *pargána* in which the land granted may be situated, the amount of the public revenue payable therefrom, the name or names of the proprietor or proprietors and a copy of the decree are to be entered in the Register of Intermediate Resumptions directed to be kept by section 33, and opposite to such entry the Collector is to insert in red ink the number of the page in the Periodical Register directed to be kept by section 22, in which the lands may stand recorded; and in the Periodical Register he is to specify in red ink the number of the page in the Register of Intermediate Resumptions, in which the decree adjudging the land subject to the payment of revenue and the other entries above specified may be inserted. These entries in the Register of Intermediate Resumptions are likewise to be inserted in the Register of Intermediate Mutations in landed property paying revenue to Government directed to be kept by section 16, Regulation XLVIII, 1793, in order that the land may be recorded in its proper place as an estate paying revenue to Government in the next Quinquennial Register which may be formed agreeably to the abovementioned Regulation. The Collector is to insert in red ink opposite to the entries relating to such lands in the Periodical Register and the Register of Intermediate Resumptions the number of the page in the Register of Intermediate Mutations in which the above-required entries may be made; and he is also to specify in red ink opposite to such entries in the Register of Intermediate Mutations the number of the page in the Periodical Register and the Register of Intermediate Resumptions, in which the entries respecting the lands may be inserted.

Record of lands specified in section 7, adjudged liable to the payment of revenue, where to be made.

Second. When land of the description specified in section 6 shall be finally adjudged liable to the payment of revenue, the land, the name of the *pargána* in which it may be situated, the *jamá* payable therefrom, the name or names of the proprietor or proprietors and a copy of the decree are to be entered in the Register of Intermediate Resumptions; and opposite to such entry the Collector is to insert in red ink the number of the page in the Periodical Register in which the lands may stand recorded; and in the Periodical Register he is to insert in red ink the number of the page in the Register of Intermediate Resumptions, in which the decree adjudging the land subject to the payment of revenue and the other entries above specified may be inserted. The lands mentioned in this section not being liable to the payment of revenue to Government, no entry respecting them is to be made in the Register of Intermediate Mutations, or the Quinquennial Register directed to be kept by Regulation XLVIII of 1793.

Record of lands specified in section 6, adjudged liable to the payment of revenue, where to be made.

Record of land now subject to the payment of revenue, but which may be hereafter adjudged exempt from the payment of revenue, where to be made.

Third. When land now subject to the payment of revenue shall be finally adjudged to be exempted from the payment of revenue, the land which may be so exempted, the *pargána* in which it may be situated, the name or names of the proprietor or proprietors, the amount of the *jamá* and a copy of the decree are to be entered in the Register of Intermediate Mutations; and the Collector is to insert in red ink opposite to such entry the number of the page in the last formed Quinquennial Register in which such village or villages, or the village or villages in which the lands may be situated may be recorded, that the lands included in the grant may be omitted in the Quinquennial Register which may be next formed, and also the number of the page in the Register of Intermediate Resumptions in which such entries are also to be recorded, that they may be inserted in their proper place in the Periodical Register of land held exempt from the payment of revenue; and the Collector shall insert in red ink opposite to such entries the number of the page in the Register of Intermediate Mutations from which they may have been taken. The rules in this clause are to be observed likewise in case the Governor-General in Council should deem it proper from particular circumstances to renew any former grants, the land included in which may be now subject to the payment of revenue.

Rule to apply to old grants renewed by Government.

Register of lands held exempt from the payment of revenue prior to the 1st December 1790, to be formed every five years.

XXII. That Government and its officers may at all future periods have in their possession a complete register of the lands throughout the provinces held exempt from the payment of revenue under grants of the nature of those described in this Regulation, and with a view to prevent any such grants being made in future, a Register of all lands, whether exceeding or under one hundred *bíghás*, held exempt from the payment of revenue under grants made previous to the 1st December 1790 shall be formed every five years in each zillah. The Register is to specify the denomination of each grant, whether *bramottar*, *bishan-perít* or other tenure—the names of the grantor, the original grantee, and the person in possession—and, if the person in possession be not the original grantee, his relationship to him, if any relationship exists, and in virtue of what right he succeeded to the grant—the date of the grant—and the name of the *pargána* in which the land granted may be situated. The Register shall be denominated the "Periodical Register of lands, held exempt from the payment of revenue under Grants made previous to the 1st December 1790, not being *Badshahí* or Royal Grants."

Contents of the Register.

Denomination of the Register.

Holders of land exempt from the payment of revenue, allowed one year to register

XXIV. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred *bíghás*, in virtue of grants made previous to the 1st December 1790, and whether made or confirmed by the Government of the country for the time being or any other authority,

shall be allowed one year from the date of the Publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector of the revenue of the *zillah* in which the lands may be situated.

them from the time specified in section 25.

XXV. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each *zillah*, upon the receipt of this Regulation, is to cause the following Publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindustani language and Nagree character in Bahár, and attested with their official seals and signatures, to be fixed up in the principal *kachahrí* of every proprietor and farmer of land in the *zillah* paying revenue immediately to Government, and of every native collector in lands held *khas* by Government; and, where the estate of any proprietor with whom a settlement may have been concluded, or the farm of any farmer, or lands held *khas* shall consist of two or more whole *pargánas* or portions of *pargánas*, he shall cause the Publication to be fixed up in the principal *kachahrí* in each *pargána* or portion of a *pargána* comprised in such estate, farm or *khas* lands, and take a receipt, specifying the date on which the Publication may be fixed up, from such proprietor, farmer or native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it.

Publication to be made, requiring all persons to register their grants.

"In conformity to Regulation XIX, 1793 every person being actually in psosession of *bramottar*, *bishanperít* or other land now exempt from the payment of revenue, in the estate of ——, or the farm of ——, or the *khas* lands under the charge of ——, whether exceeding or under one hundred *bíghás* of the measurement of the *pargána* in which the land may be situated, and whether comprising or lying in one village or two or more villages, and which may be held in virtue of any grant made previous to the first December 1790, corresponding with the 18th Aughun 1197 Bengal era, the 10th Aughun 1198 Fussily, the 18th Aughun 1198 Willaity, and whether made or confirmed by the Government of the country for the time being or its officers or any other authority, are required to register the following particulars respecting such lands in the office of the Collector of the *zillah* before the expiration of one year from the date of this Publication. If any holders of such grants, who shall not so register their grants either in person or by *vakíl* with a *vakalutnama* attested by two credible witnesses and given for the express purpose of registering the grant, the lands will be considered liable to the payment of revenue in the same manner as if they had been adjudged to be so by a final decree of a Court of Judicature. Persons having claims only to hold land exempt from the payment

Publication.

of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the lands so claimed by them.

Denomination of the grant, whether *bishanperít*, *bramottar*, or other tenure.

Name of the grantor.

Name of the original grantee.

Name of the present possessor, and, if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily or by purchase or what other mode.

Date of the deed, if the grant be in writing, and if not, the date on which the grant was made.

The *pargána* or *pargánas* in which the lands may be situated.

A copy of the original grant or other writings under which the land may be held.

[See s. 19, Reg. VIII of 1800.]

Lands not registered within the prescribed time declared subject to the payment of revenue, unless the Governor-General in Council shall admit them upon the Register.

XXVI. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the Publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall by such omission become subject to the payment of revenue in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector, if the land shall exceed one hundred *bíghás*, shall proceed to assess the lands accordingly; and, if it shall be under one hundred *bíghás*, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed. The Governor-General in Council, however, reserves to himself the power of admitting any grant upon the Register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause to his satisfaction for not having registered it within the limited period, and the Board of Revenue are to report to the Governor-General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the Register

[See s. 19, Reg. VIII of 1800.]

Grants not registered within the prescribed period, or admitted by the Governor-General in Council, to be considered invalid.

XXVII. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time and which may not be subsequently admitted on the Register by the Governor-General in Council are declared invalid as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

XXVIII. It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. Any person will be at liberty to sue him in the *Díwání Adálat* for the former, and he will be liable to be sued for the recovery of the latter by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the lands are liable to the payment of revenue.

Registry of lands not to be considered as an admission of the possessor's proprietary right in the soil, nor of his title to hold the land exempt from the payment of revenue.

XXIX. Upon the expiration of the period for registering the grants in each *zillah*, the Collector is to prepare a draft of the Register in the form which may be prescribed by the Board of Revenue, and to cause it to be transcribed into a book of such dimensions as they may direct. The book shall have the following inscription on the back of it: "Periodical Register formed under Regulation XIX of 1793 of Lands held exempt from the Payment of Revenue under Grants not *Badshahí* or Royal made previous to the 1st December 1790, in the *zillah* of ——, at the commencement of the year —— Bengal (Fussily or Willaity) era, corresponding with the year of our Lord ——. Number ——." Each leaf of the book shall be paged, and be signed by the Judge of the *Díwání Adálat* of the *zillah* and on the last leaf of the book he is to note in his own handwriting the number of pages in the book, and subscribe the note with his signature, and no Register is to be deemed authentic but such as may be entered in a book so paged and attested. The first Periodical Register is to be numbered one.

Collectors to prepare the Register upon the expiration of the period limited for the registry of the grants.

Inscription on the back of the Register Book to be paged, and each page to be attested by the Judge of the *zillah*.

Judge to specify the number of pages in the book on the last leaf.

XXX. The second Periodical Register is to commence with the year 1207 of the era current in each province. This Register is to be numbered two, and the Periodical Registers to be prepared at the commencement of every subsequent five years, in the order in which they may be formed.

Second Periodical Register to commence with the year 1207, to be numbered two, and the subsequent Registers in their order.

XXXIII. For the purpose of recording all resumptions or other occurrences respecting the lands which form the subject of this Regulation, that may take place during the interval of the five years between the forming of each Periodical Register, and the particulars of which will be necessary for forming the second and all future Periodical Registers, the Collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated "The Register of Intermediate Resumptions, or other occurrences respecting grants of exempted land not *Badshahí*," and shall have the following inscription on the back, "Register formed under Regulation XIX of 1793, of Intermediate Resumptions, or other occurrences respecting lands held exempt from the payment of revenue under grants not *Badshahí* or Royal made previous to

Manner in which resumptions and other occurrences regarding exempted lands in the intervals between the forming of the Periodical Registers are to be recorded.

the 1st December 1790, in the *zillah* of ——, between the commencement of the year ——, and the end of the year ——, Bengal (Fussily or Willaity) era." Previous to any entries being made in this Register, it is to be paged and the Judge of the *Díwání Adálat* of the *zillah* is to sign each leaf of it and on the last leaf note in his own handwriting the number of pages contained in the book and attest the note with his signature. The Collector is to cause to be entered in this Register all grants not registered within the time prescribed in the publication in section 25, which the Governor-General in Council may order to be admitted upon the Register under section 26; all grants of exempted land that may be adjudged or become liable to the payment of revenue; all lands now paying revenue which may be adjudged not subject to the payment of revenue; all old grants of land now subject to the payment of revenue, which the Governor-General in Council may judge it proper from particular circumstances to renew; and all exempted lands which may be separated from or annexed to the jurisdiction of the *zillah*, with the authority for these several occurrences, and also the particulars for completing the requisite entries in the Register of Intermediate Mutations in landed property paying revenue to Government in the cases specified in section 21, in which entries are directed to be made in that Register.

Documents respecting exempted lands to be furnished by Collectors of *zillahs* from which separations may be made.

XXXIV. When *maháls* are ordered to be separated from one *zillah* and annexed to another, the Collector of the *zillah* from which the separation is to take place is to transmit to the Collector of the *zillah* to which the annexation is to be made a copy of the entries in the preceding Periodical Register, as far as they may regard the lands held exempt from the payment of revenue in such *maháls*; and also of any entries respecting them in the Register of Intermediate Resumptions which may have taken place subsequent to the forming of the last Periodical Register.

How such separations and annexations of exempted lands are to be notified to the Courts of Judicature.

XXXV. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the *zillah* from which the separation may be directed to be made is to transmit to the Judge of the *Díwání Adálat* of his *zillah* copies of the entries in the last Periodical Register, and Register of Intermediate Resumptions, which may relate to the grants to be separated from his *zillah*; and the Collector to whose *zillah* the annexation may be made is to transmit copies of the abovementioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the *zillah*, in which it may be included. Immediately upon the receipt of these papers, the Courts from the jurisdiction of which the separations may be made are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other *zillah* Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

XXXVI. The Collectors are to attest all entries in the Register of Intermediate Resumptions with their official signatures, and they are strictly enjoined never to allow the Register of Intermediate Resumptions to fall in arrear, but to make the necessary entries immediately upon any resumptions or other occurrences taking place.

Collectors enjoined never to allow the Register of Intermediate Resumptions to fall in arrear.

XXXVIII. When a Periodical Register shall have been transcribed fair into the book attested by the Judge of the *zillah* as directed in section 29, if it shall be discovered that the entries respecting any land are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased but are to stand, and the Collector is to cause the errors or omissions to be noted in the Register of Intermediate Resumptions, and to attest the entry with his signature and insert in red ink opposite to the erroneous or incomplete entry in the Periodical Register the number of the page in the Register of Intermediate Resumptions in which the errors or omissions may be noted, and at the end of the note specify the number of the page of the Periodical Register in which the Property may be Registered. Errors or omissions in the Register of Intermediate Resumptions are to be noted in a similar manner.

How errors in the fair copy of the Periodical Register, and in the Register of Intermediate Resumptions, are to be corrected.

XXXIX. Erroneous or incomplete entries in the counterparts of the Registers to be kept by the keepers of the native records are to be noted by them in the same manner as the Collector is directed to note erroneous entries in the English Registers. But the note of every such entry in the counterpart of the Register of Intermediate Resumptions in the country languages shall, in addition to the attestation of the keepers of the native records, be signed by the Collector.

Similar rule with regard to errors in the counterpart of the Quinquennial Register and Register of Intermediate Resumptions in the native languages.

XL. If the proprietary right in any grant of exempted land shall be under litigation in a Court of Justice at the time of forming the first or any subsequent Periodical Register, the party in possession is to be registered as the proprietor.

Persons in possession of disputed grants to be registered as the proprietors.

XLI. If a Collector shall have occasion to require from the holder of a grant any information that may be necessary to enable him to form a Periodical Register, or to make the requisite entries in the Register of Intermediate Resumptions, and such person shall omit to furnish it by the time required, after having been served by the Collector with a written requisition for that purpose under his official seal and signature, the Collector is to report the circumstances to the Board of Revenue, who are empowered to impose on such person whatever daily fine may appear to them proper on a consideration of his situation and circumstances in life and of the case, until he shall furnish the information required, unless he shall prove to the satisfaction of the Board that it was not in his power to furnish it. The Collector is to levy the amount of such fines by the process to which

Holders of grants liable to be fined for omitting to furnish any information that may be required by the Collectors for preparing the Registers.

Board of Revenue to furnish the Collectors with all papers and information they may possess regarding the exempted lands in their respective *zillahs*.

he is authorized to have recourse for the recovery of arrears of revenue. The Board of Revenue are to furnish the Collectors in the several *zillahs* with such records or information as they may possess regarding the exempted lands in their respective *zillahs*, as well to assist them in preparing the first Periodical Register, and in detecting frauds that may be attempted to be practised upon them in registering the grants, as to aid them in ascertaining what lands, now held exempt from the payment of revenue, are liable to the payment of revenue under this Regulation.

To whom the Collectors are to send copies of each Periodical Register, and of the quarterly entries in the Register of Intermediate Resumptions.

XLII. The Collectors of the several *zillahs* are to transmit as early as may be practicable to the Board of Revenue an attested copy of the Periodical Registers both in the English and the native languages, each in a book of the prescribed size, paged and attested by the Judge of the *Díwání Adálat* of the *zillah* in the same manner as the original Register, as directed in section 29; and within one month after the expiration of the third, sixth, ninth and twelfth months of the Bengal, Fussily and Willaity year (according to the era current in their respective districts) an attested copy of the entries in the Register of Intermediate Resumptions that may have taken place during the three preceding months.

[See ss. 15 and 16, Reg. VIII of 1800.]

The Board of Revenue and the Collectors, to be careful to preserve the old periodical Registers and Registers of Intermediate Resumptions.

XLIII. The Board of Revenue and the Collectors are enjoined to be particularly attentive to the preservation of the Periodical Registers and Registers of Intermediate Resumptions, both in the English and native languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects or otherwise.

From what materials the Periodical Register commencing with 1207, and subsequent Registers are to be formed.

XLIV. The Periodical Register, which is to be formed in each of the *zillahs* in Bengal, Bahár and Orissa at the commencement of the Bengal, Fussily and Willaity year 1207, and at the commencement of every succeeding five years, is to be prepared from the preceding Periodical Register, and the entries in the subsequent Register of Intermediate Resumptions, with the omission of any grants of land thatmay have been subjected to the payment of revenue during the preceding five years, or that may have been transferred to the jurisdiction of another *zillah*, and with the addition of any such grants of land that may have been annexed to the *zillah*, or that may have been adjudged not subject to the payment of revenue, or that may have been admitted upon the Register by the Governor-General in Council under section 26. The materials for each Periodical Register will thus be ready upon the arrival of the period for preparing it, and the Register will be completed by the mere transcript of them into the book, arranged according to the prescribed form.

XLV. If it shall be proved to the satisfaction of the Judge of the *Díwání Adálat* of any *zillah*, that a Native Officer of a Collector or of an Assistant to a Collector shall have received, directly or indirectly, any sum of money or effects or other property from any person for registering a grant under this Regulation, or on account of any matter relating to the registry thereof, the Court shall adjudge him dismissed from his office and compel him to repay the money proved to have been taken with a fine of three times the amount to Government, and costs to the party suing him, and commit him to prison until he shall have discharged the amount of the decree, or it shall have been made good by the sale of his property.

Penalty for native officers receiving money or property on account of the registry of grants.

XLVI. If any native servant or dependent of a Collector or of an Assistant to a Collector, not being a public officer, shall be convicted before the Court of *Díwání Adálat* of the offence specified in the preceding section, he shall be compelled to restore the money to the person from whom it may have been taken, and to pay a fine of three times the amount to Government with costs to the party suing, and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he makes good the amount, or it shall be realized from the sale of his property: and the Collector or Assistant is to discharge such servant and never to employ him in his public or private capacity.

Penalty for private servants or dependents of a Collector, or of an Assistant to a Collector, convicted of the offence specified in the preceding section.

XLVII. All the rules in this Regulation respecting lands now held or that may be claimed to be held exempt from the payment of revenue under life grants made previous to the date of the Company's accession to the *Díwání* are to be considered equally applicable to grants made previous to that date for a term only.

Rules respecting life grants applicable to grants for a term.

XLVIII. No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the late Superintendents of the *Bazi-Zemin Daftar* in Bengal, in virtue of the powers vested in them.

Grants made or confirmed by the late Superintendents of the *Bazi-Zemin Daftar* in Bengal, not to be annulled by this Regulation.

XLIX. Nor to extend to *jagír, altamgha, madad-mâsh, ayma* or other grants of land termed *Badshahí* or Royal, and held or stated to be held under a royal *farmán*. The rules applicable to such grants are contained in Regulation XXXVII of 1793.

Regulation not to be considered to extend to *Badshahí* grants.

[Lakhiráj or revenue-free grants are *Non-badshahí* or *Badshahí*.[1] *Non-badshahí* grants were made by zemindárs and officers of Government appointed to the temporary superintendence of the

Lakhiráj Grants of two kinds—Non-Badshahí and Badshahí.

[1] For the derivation, &c. of lakhiráj, see *ante*, p. 86.

collection of the revenue, generally under the pretext that the produce of the lands was to be applied to religious or charitable uses (Preamble to Reg. XIX of 1793). The law applicable to these grants is Reg. XIX of 1793 for Bengal, Bahár and Orissa, extended with certain modifications to Cuttack by ss. 17—24, Reg. XII of 1805; Reg. XLI of 1795 for the Province of Benares; and Reg. XXXI of 1803 for the Ceded Provinces, extended to the Conquered Provinces &c. by s. 21, Reg. VIII of 1805.[1] *Badshahí* grants were those made by the sovereign, and the law applicable to these grants is Reg. XXXVII of 1793 for Bengal, Bahár and Orissa, extended with modifications to Cuttack by ss. 24—29 of Reg. XII of 1805; Reg. XLII of 1795 for the Province of Benares; and Reg. XXXVI of 1803 for the Ceded Provinces, extended to the Conquered Provinces &c, by s. 24, Reg. VIII of 1805.[1] So much of the law concerning both classes of grants as relates to the North-Western Provinces was repealed by s. 2, Act XIX of 1873, in which the existing law for those Provinces is now to be found.

Three Classes of Lakhiráj Grants Non-Badshahí.

This Note is concerned with *Non-badshahí* grants, *i.e.* grants which form the subject of the above Regulation. Such lakhiráj grants may be divided into three classes: *viz.* (1) Grants of dates antecedent to 12th August 1765, the date of the Company's accession to the Díwání; (2) Grants posterior to 12th August 1765, but antecedent to the 1st December 1790; (3) Grants posterior to 1st December 1790.

First Class.

With respect to the *First Class*, all grants, by whatever authority made, and whether in writing or not, were admitted and allowed to be valid, if the grantees had got possession and the land had not subsequently been made subject to the payment of revenue by competent officers of Government. Whether any particular officer of Government *had been* competent in this respect, it was left to the Governor-General in Council to decide in case of doubt (s. 2, Reg. XIX of 1793). With respect to the *Second Class*, all grants made by any other authority than that of Government and not subsequently confirmed by Government or by any officer empowered to confirm them were declared invalid. Whether any officer had been competent to confirm it rested with the Governor-General in Council to decide in cases of doubt. Grants made by the Chiefs of the Provincial Councils were valid, and so were grants of *less than ten bíghás*, the produce of which was *bonâ fide* appropriated for the endowment of temples or for the maintenance of Bramins or other religious or charitable purposes, provided that these latter grants were of dates antecedent to the Bengal year 1178, or the Fussily or Willaity year 1179. Grants of the *Second Class* so declared invalid were sub-divided into *grants exceeding* 100 *bíghás and grants not exceeding* 100 *bíghás*. The revenue assessable on the former was declared to be the property of Government, and these grants when assessed were to become *independent talúks*, that is, their revenue was to be paid direct to Government and not through any zemindár. The revenue assessable on grants of less than 100 bíghás was made over by Government to the proprietors of estates within which these grants were situate, who were authorized to assess them and realize the revenue from them, without being at the same time liable to pay any additional revenue for the estates in which the lands so resumed were included. These grants were to become *dependent talúks*.

Second Class—

Sub-divided into Grants exceeding 100 bíghas—and

Grants not exceeding 100 bíghás.

Third Class. Section 10, Reg. XIX of 1793.

I now come to the *Third class*, *i.e.* grants made since the 1st December 1790; and these, whether exceeding or not exceeding one hundred *bíghás*, were declared null and void, and section 10 of Reg. XIX of 1793 enacted that no length of possession was thereafter to give validity to any such grant either with regard to the property in the soil or the rents of it: and every person who then possessed or might thereafter succeed to the proprietary right in any estate or dependent *talúk*, or who then or thereafter held any estate or dependent *talúk* in farm of Govern-

[1] For further information see the Chronological Table opposite these Regulations.

ment, or of the proprietor or any other person, and every officer of Government appointed to make the collections from any estate or *talúk* held *khas*, was by the same section *authorized and required to collect the rents from such lands at the rates of the pargána, and to dispossess the grantee of the proprietary right in the land and to re-annex it to the estate or talúk in which it was situated, without making previous application to a Court of Judicature or sending previous or subsequent notice of the dispossession or annexation to any officer of Government.* No proprietor, farmer or dependent *tálukdár* was to be liable to any increase of revenue on account of such grants resumed by him.

In order to render more easy of comprehension a large number of cases upon a very important subject, I shall here give the provisions of subsequent enactments, by which section 10 of Reg. XIX of 1793 has been modified and affected. The first of these is section 30, Reg. II of 1819, the first clause[1] of which is as follows :—

"All suits preferred in a Court of Judicature by proprietors, farmers or tálukdárs to the revenue of any land held free of assessment, as well as all suits so preferred by individuals claiming to hold lands exempt from revenue, shall immediately on their institution be *referred for investigation to the Collector* or other officer exercising the powers of Collector: provided also that proprietors, farmers or tálukdárs, who may deem themselves entitled to the revenue of any land held free of assessment in their respective estates, talúks or farms, or individuals claiming as aforesaid to hold lands free of assessment shall be *at liberty to prefer their claims in the first instance to the Collector;* provided further that the party so preferring his claim directly to the Collector shall, in his petition to the Collector, state the particulars of his claim, and the grounds on which it is founded, in like manner as if the suit were instituted in a Court of Judicature: and the petition shall be written on stamped paper of the value prescribed for petitions of plaint in suits instituted in those Courts." Section 30, Reg. II of 1819.

The next provision on the subject is to be found in Act X of 1859, section 28 of which repealed so much of s. 10, Reg. XIX of 1793; s. 10, Reg. XLI of 1795; s. 6, Reg. XXXI of 1803; s. 21, Reg. VIII of 1805, and s. 24 of Reg. XII of 1805, as authorized proprietors and others of their own authority to collect the rents, to dispossess the grantees of the proprietary right in the land and re-annex it to the estate or *talúk* in which it was situate. Such proprietors and others who desired to assess any such land or to dispossess any such grantee were by this section directed to make application to the Collector and such application was to be dealt with as a suit under the provisions of the Act. Every such suit was to be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land first accrued. Section 28, Act X of 1859.

Section 30 of Reg. II of 1819 allowed proprietors and others claiming to assess land held as *lakhiráj* to apply—either to the Civil Court, which was to refer such claims to the Collector for investigation, and then decide upon his report after calling for such further evidence as appeared necessary—or to the Collector, from whose decision an appeal lay to the Judge. Act VII (B.C.) of 1862, reciting that this procedure was unnecessary and caused inconvenience and delay in the decision of these cases, repealed the above section within the provinces subject to the Government of Bengal, and enacted that all suits preferred by proprietors, farmers or tálukdárs Act VII (B.C.) of 1862.

[1] The remaining clauses are concerned with procedure merely, and as the whole section has been repealed (see *Chronological Table*) they are now unimportant. It may be observed that the preceding 29 sections of the Regulation are concerned with the procedure to be followed by *Government* in resuming land held under invalid lakhiráj titles. What follows above deals with resumptions by *private proprietors of estates.*

to resume the revenue of any land held free of assessment, as well as all suits preferred by individuals claiming to hold land exempt from the payment of revenue, should be instituted, heard and determined in and by the Courts of Civil Judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in Act VIII of 1859, and not otherwise. Section 3 made the Act applicable to all suits commenced under s. 30, Reg. II of 1819, and then pending, and directed the transfer of such suits to the Civil Courts.

Proprietors concerned with two classes of Lakhiráj lands.

It will appear from what has been said above that proprietors, in the exercise of the resumption powers conferred on them by law, are concerned with two classes of lakhiráj grants,[1] *viz.*: I.—Grants *made previous to the 1st December* 1790 and *not exceeding one hundred bíghás*, the revenue of which (when adjudged invalid) was by s. 6, Reg. XIX of 1793 made over to the persons responsible for the discharge of the revenue of the estate, within which the land included in such grants might be situate. It may be observed that the land included in such grants had been expressly *excluded* from the Decennial and Permanent Settlements, and therefore the gift of the revenue assessed on these grants to the proprietors of the estates was an act of liberality on the part of Government. The ex-*lakhirájdár* was not to be *dispossessed*, but was to hold the land when subjected to the payment of revenue as a *dependent táluk*. II.—Grants *made after the 1st December* 1790, *whether exceeding or not exceeding one hundred bíghás*. These grants (unless made by the Governor-General in Council) were in all cases null and void, and having been *included* within the limits of permanently-settled estates, the proprietors of such estates were by s. 10, Reg. XIX of 1793, authorized and required to *dispossess* the grantees, annex the lands to their estates and collect the rents thereof: and this without making any previous application to a Court of Justice, or sending previous or subsequent notice of the dispossession to any officer of Government. With respect to the *first* class, on the contrary, proprietors were expressly required by s. 11, Reg. XIX of 1793, to institute suits in the Courts of Díwání Adálat for the recovery of the revenue made over to them by Government, and were declared liable to damages if they subjected the lands to the payment of revenue without having first obtained a judicial decree. It may easily be supposed that zemindárs were occasionally unable to exercise the powers conferred on them by law in respect of the *second* class: and, finding that they could not of themselves dispossess persons holding grants invalid by reason of having been made subsequent to 1790, they resorted to the Civil Courts and by suits for possession asserted the rights given them by law. Inasmuch as the lands were held in violation of these rights, the Courts under their general powers and jurisdiction might be supposed competent to administer a remedy, which could not be held barred by the fact of the zemindárs being allowed (if able) to apply the same remedy themselves. No doubt also in many cases the security of a judicial decree was sought in order to preclude all further claims on the part of those who might rely on former possession as evidence of title. Resumption suits by proprietors were not at first frequent, when land was plenty and population more or less sparse. But, as the value of land rose from increase of population and other causes, proprietors began to look more keenly after their interests in this respect, and the provisions of the Resumption Laws were more generally called into operation. As a natural consequence, the meaning and application of those laws became the subject of much judicial construction.

At first, suits in respect of both classes of grants with which proprietors were concerned were brought under the provisions of s. 30, Reg. II of 1819. There could be no doubt that suits

[1] *i.e. Non-badshahi* grants. The revenue of all *Badshahi* grants and of all Non-badshahí grants other than the above went, when resumed, to Government.

for the resumption of the first class came properly under this section: but it was by no means so clear that the section was intended to apply to cases concerned with the second class. Section 28, Act X of 1859 however applied in explicit terms to this latter class, and, while taking away the powers conferred on private individuals by s. 10, Reg. XIX of 1793, constituted a regular jurisdiction, *viz.* that of the Collector's Court, for administering a remedy in respect of this class. The following question therefore arose,—"Is the Collector's jurisdiction under s. 28, Act X of 1859, an exclusive one?" The whole question was discussed by a Full Bench of the Calcutta High Court in the case of *Sonaton Ghose and others* v. *Múlví Abdúl Farar* (B. L. R. Sup. Vol. F. B. 109, and II W. R. Civ. Rul. 91). The plaint in this case had been filed in the Collector's Court on the 30th December 1861, and was subsequently transferred to the Civil Court under the provisions of s. 3, Act VII (B.C.) of 1862. The defendant pleaded a *lakhiráj* title created before 1790. He failed however to prove this title: and it was contended that, as his alleged grant must in consequence have been posterior to 1790, the Civil Court had no jurisdiction and the case should have been decided by the Collector under s. 28, Act X of 1859. Six out of the seven Judges, who constituted the Full Bench, were clearly of opinion that before the passing of Reg. II of 1819 the Civil Courts had, under their ordinary and general powers, jurisdiction to entertain suits concerned with grants of the second class. The seventh Judge pronounced no distinct opinion upon this point. Four Judges, a majority of the Court, held that this jurisdiction was not affected by the passing of s. 30, Reg. II of 1819, the proper application of which they considered to be limited to suits concerned with the first class of grants. Four (but not the same four) Judges held that the jurisdiction of the ordinary Civil Courts, as it was not expressly, so it was not by implication, taken away by s. 28, Act X of 1859, and that the Collector had therefore not an *exclusive* but a *concurrent* jurisdiction, in respect of suits of the second class. The opinions of the Judges individually may be thus epitomized. The minority, *Trevor*, *Seton-Karr* and *Glover*, *JJ.* denied the jurisdiction of the Civil Courts in respect of suits of the second class on the same grounds, *viz.* that the jurisdiction, which had existed before and independently of s. 30, Reg. II of 1819, and which was not affected by that Regulation, was by implication taken away by s 28, Act X of 1859. *Phear* and *Jackson*, *JJ.* affirmed the jurisdiction of the Civil Courts on the ground that s. 28, Act X of 1859 did not take away that jurisdiction, whether it existed independently of s. 30, Reg. II of 1819, or, as they considered, under the operation of this section. *Sumbhúnath Pundit*, *J.* affirmed the jurisdiction of the Civil Courts, which he held to exist independently of and to be wholly unaffected by s. 30, Reg. II of 1819, on the ground that it was neither expressly nor impliedly taken away. The opinions on either side being so far equal, Norman, *Officiating* C.J. held that after the passing of s. 30, Reg. II of 1819 the Civil Courts rightly exercised jurisdiction under this section in respect of suits of the second class (on this point, as we have seen, a majority of the Court decided otherwise), and then, without saying specifically whether he considered that *other* jurisdiction, which had existed before and independently of s. 30, Reg. II of 1819, to have been determined by the passing of this Regulation, he concluded thus generally:—"I am therefore of opinion that s. 28 of Act X of 1859 does not touch the right of a plaintiff to institute a regular suit for the resumption of grants falling within s. 10, Reg. XIX of 1793, and therefore that the Civil Court had jurisdiction in the present case." One of the results of this decision was that, although suits by proprietors for the resumption of *lakhiráj* created after 1790 may be instituted either in the Civil Courts, or in the Collector's Courts under the provisions of s. 28, Act X of 1859,[1]

Collector's jurisdiction under Section 28, Act X of 1859 concurrent with that of the Civil Court, and not exclusive—Leading case of *Sonaton Ghose* v. *Abdúl Farar.*

[1] It may be observed here that Act VIII (B.C.) of 1869 contains no section corresponding with s. 28 of Act X of 1859; and that in districts, in which the former Act is in force, Collectors have now no jurisdiction whatever to try lakhiráj cases.

yet, if the former tribunal be chosen, such suits are improperly framed, if expressly brought under the provisions of s. 30, Reg. II of 1819 in order to get the benefit of the procedure there described, which throws wholly upon the alleged *lakhirájdár* the burden of proving a valid *lakhiráj* grant. The Full Bench decision in the case of *Sonaton Ghose* v. *Múlví Abdúl Farar* was considered and approved by the Privy Council in the cases of *Harihar Mukhapadhyay* v. *Madab Chandra*, and *Nobo Kisto Mukhapadhyay* v. *Kailas Chandra Bhattacharyjya*, XIV Moo. In. Ap. 152, & VIII B. L. R. 566.

Collector has no jurisdiction to try the validity of Grants anterior to 1790.

In the case of *Múrúbhí Sáhú* v. *Latú Kúmár alias Dyebattí Kúmar and others* (Sp. No. W. R. 70) the plaintiff did not state in his application to the Collector under s. 28, Act X of 1859, that the grant was subsequent to 1st December 1790. The defendant claimed to hold under a grant prior to that date, and the plaintiff did not give any evidence to show that the grant was subsequently made. *Held* that the Collector was right in dismissing the suit on the ground that the *sanad* was dated previous to 1st December 1790, and that he had no jurisdiction to try whether such a *sanad* was valid or not.[1] In connection with this case may be noticed *Bissambher Misser and others* v. *Gunpat Misser* (I Mar. 350) in which it was decided that an application to the Collector under s. 28, Act X of 1859 is a suit, and an appeal from the Collector's decision lies not to the Commissioner but to the Judge. Whether therefore a suit to resume a grant of the second class be instituted in the Court of the Collector or in the Civil Court, the appeal will follow the same direction. A suit under s. 28, Act X of 1859 proceeds, not on the ground that the tenant holds under an invalid tenure, but upon the ground that the tenure is invalid for the reason mentioned in s. 10, Reg. XIX of 1793, *viz.* that the grant creating it was made since 1st December 1790. To obtain relief in a case of this kind, the plaintiff must prove that the tenant holds under such a grant. The Collector has no jurisdiction to try whether a grant anterior to 1790 was valid or not—*Múrúbhi Sáhú* v. *Latú Kúmár alias Dyebattí Kúmár and others*, Sp. No. W. R. 70; *Máhárání Inderjít Kunwar* v. *Choku Sáhú* B. L. R. Sup. Vol. F. B. 1, and Sp. No. W. R. 81.

Burden of proof in suits to resume Grants posterior to 1790.

Whether the zemindár sues in the Civil or in the Revenue Court, the burden of proving that the land has paid rent since 1790 falls upon him—*Parbatí Charan Mukhopadhyay* v. *Raj Krishno Mukhapadhyay*, B. L. R. Sup. Vol. F. B. 164. In a suit to recover possession of 93 bighás of land held as *lakhiráj*, but asserted by plaintiffs to belong to their rent-paying villages, it was decided that plaintiff was bound to show that at some time subsequent to the Decennial Settlement rent was collected from the lands in question: and that, until plaintiff made out a *primâ facie* case to this extent, the defendants in possession could not be called upon to prove their title to hold possession of the lands. "We hold" observed the Judges "that a plaintiff, coming into Court under s. 10 of Reg. XIX of 1793 for the recovery of the possession of land, taken and pleaded by the opposite party to have been held adversely as *lakhiráj* from a period antecedent to the creation of the title of the zemindár, must show that at some period subsequent to the creation of his *zemindárí* title, rents have been collected from the same, before the defendants can be called upon to prove their right to retain possession of that which they have got"—*Tarini Persad Ghose* v. *Kalíchurn Ghose and others*, I Mar. 215. On the subject of the burden of proof being on the zemindár, when the right of resumption is sought to be exercised under s. 10, Reg. XIX of 1793, *i.e.* with respect to *lakhiráj* averred to have been created after 1790, see also the cases of *Khelat Chandra Ghose* v. *Púrno Chandra Rai*, II W. R. Civ.

[1] A Deputy Collector has no jurisdiction to try a suit under s. 30, Reg. II of 1819. He should return the plaint and refer the plaintiff to the Collector, who has jurisdiction—*Gauri Kant Banerji* v. *Lal Mahomed Mulla and others*, Sp. No. W. R. 70.

Rul. 258; *Behari Lal Rai* v. *Kali Das Chandra*, VIII W. R. Civ. Rul. 451; *Harihar Múkherji* v. *Abbas Ali Khan and others*, II Sev. 875.

B, a *zemindár*, sued certain raiyats for rent. A intervened under s. 77, Act X of 1859, alleging that the land held by those raiyats was not B's *mâl* land, but his (A's) *lakhiráj*. A's intervention being unsuccessful, he brought a regular suit against B in the Civil Court to establish his *lakhiráj* title and contended that, with reference to the case of *Manmohini Dási* v. *Jaikissen Múkerji* (Sp. No. W. R. 174 and *post*), he was not bound to prove his *lakhiráj* title, long possession as apparent lakhirájdár being sufficient to throw the *onus* on B the *zemindár*. *Held* that this contention was untenable, and that, when a plaintiff comes into Court to prove a *lakhiráj* title, no proof of possession for years (unless it be carried beyond 1790) as apparent *lakhirájdár* can excuse him from proving his title—*Ram Jíban Chackravartti and others* v. *Persad Shar and others*, VII W. R. Civ. Rul. 458. A zemindár ousted a *lakhirájdár*, alleging his right to do so under s. 10, Reg. XIX of 1793, inasmuch as the *lakhiráj* was created after 1790. The *lakhirájdár* brought a suit to recover possession of the land, averring that the *lakhiráj* dated from before the acquisition of the Díwání by the British Government, and therefore from before 1790. *Held* that whether the *lakhiráj* was valid or not was not a question to be tried in this suit, which was a suit not for *resumption* but for *possession;* that such question would be properly tried in a suit brought for the purpose; that the issue to be decided was, whether or not the lakhiráj was created subsequently to 1st December 1790; that it was for the defendant zemindár to prove that the *lakhiráj* was of such subsequent creation; and not for the plaintiff, who had been in possession of the land till ousted, to prove that the *lakhiráj* had been created prior to that date—*Manmohini Dási and others* v. *Jaikissen Múkerji and others*, Sp. No. W. R 174.[1]

Where to a suit for possession with *mesne* profits it was pleaded that part of the land was *lakhiráj*, but the plea was not supported by a tittle of evidence, while plaintiff produced evidence to show that the land was *mâl*, the Court would not accede to the contention that the plaintiff was bound to bring a resumption suit to try the title of the defendant to the so-called *lakhiráj* land, observing that the *lakhiráj* must be first shown to have a real existence before it can be held that any question of *lakhiráj* or no *lakhiráj* arises—*Rájá Syud Ahmed Reza* v. *Rájá Inayat Hosen and others*, I W. R. Civ. Rul. 330.

Plaintiff sued (before Act X of 1859 came into operation) for rent at enhanced rates after serving notice. Defendant pleaded as to a portion of the land, in respect of which such enhanced rent was claimed, that it was *lakhiráj*. *Held* that in this suit, the Court had no power to try the validity of an alleged lakhiráj tenure, the validity or invalidity of which must be previously tried and determined in a suit to resume or to assess; that it was for plaintiff to show that it was his mâl land, and that rent had been paid for it; that, no evidence of this kind having been given, the suit must fail in respect of this land, *Gúmani Kazi* v. *Harihar Múkherji*—before a Full

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[1] See also *Búdha Múdha and others* v. *Sheikh Kheirat Ali and others*, V W. R. Civ. Rul. 269: *Jaikissen Múkherji* v. *Piyari Mohun Datta and others*, VIII W. R. Civ. Rul. 160: *Sheikh Goberdhun and others* v. *Sheikh Tofail and others*, VIII W. R. Civ. Rul. 190: *Raja Pertab Chandra Sing* v. *Sib Das Kayat*, I W. R. Civ. Rul. 3: *Ram Lal Das* v. *Utum Churn Das*, II Sev. 704: *Srimati Uma Súndari Thakúrani* v. *Kishori Mohun Banerji and others*, VIII W. R. Civ. Rul. 238 (here the zemindár having obtained a decree for resumption and assessment, instead of assessing, ousted the former *lakhirajdár*, who, not having brought his suit for possession within six months, as required by s. 15, Act XIV of 1859, was held not entitled to recover possession afterwards.)

Bench Sp. No. W. R. 115; I. Mar. 523. The same principle was followed in a suit for rent under Act X of 1859, *Moti Lal Aduck and others* v. *Judopati Dass*, II W. R. Act X Rul. 44.[1] It was also held under s. 10 of the Benares Reg. XLI of 1796 that the burden of showing that the case is within this section lies on the zemindár, who must prove his allegation that the land was part of the *mâl* land of the *mahál*, within which it is situate, at the time of the Decennial Settlement of 1197 Fasli, or subsequently, if the property was *amání*. The mere inclusion of this land in a boundary laid down in 1852 and 1853 was held not conclusive evidence nor binding, as the boundary did not appear to have been made judicially. "If the defendant, "it was said," prove that this is a part of the land included within his property, and really assessed with revenue, then it is for the plaintiff to prove his possession as a rent-free holder, and the rent-free possession of those under whom he claims. If he can prove rent-free possession for more than 60 years of himself, and those under whom he claims, he is entitled under the decision of the Privy Council (*Mussamut Chandra Bali* v. *Luckhi Debya*), dated 1st December 1865, to have his claim decreed—*Babú Mahabír Pershad* v. *Babú Omras Singh*, I N. W. P. Rep. Civ. Ap. 167.

Burden of proof in suits to resume Grants anterior to 1790.

From what has been already said it will be evident that it is now settled law, that the only suits properly brought under s. 30, Reg. II of 1819 are suits concerned with lakhiráj created before 1790 (*See Hira Mani Debya* v. *Kunj Behari Haldar*, B. L. R. Sup. Vol. F. B. Ap. 8). The rule as to the burden of proof in this class of cases is directly the reverse of the rule applicable to grants posterior to 1790, the *onus* resting not on the *zemindár* but on the person setting up the revenue-free title. It will be good evidence of such a title to show that the lands have been held as lakhiráj ever since 1790. *Taidads* registered by the Collector in 1795 were regarded as presumptive evidence of the existence of such a tenure in 1790, *Omesh Chandra Rai* v. *Dakhina Sundri Debi and others*, Sp. No. W. R. 95: *Rájá Radhakisto Singh* v. *Radha Mangi &c.* II Sev. 366: *Khelat Chandra Ghose* v. *Purnochandra Rai and others*, II W. R. Civ. Rul. 259. A purchaser of such a tenure at an auction-sale in execution of a decree is just as much bound to prove the *lakhiráj* title as any descendant of the original grantee, *Lalla Siblal and others* v. *Sheikh Golam Nabi and others*—I Mar. 255.

A zemindár's right to resume *lakhiráj* land granted after 1790 is irrespective of the extent of the grant; but, in order to enable a zemindár to succeed in a suit to resume lakhiráj created before 1790, it must appear either that the lands are held under a *sanad granting not more than one hundred bighás or under several sanads each granting not more than one hundred bighás*. In the

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[1] See also the following cases: *Bissessur Chakravartti and others* v. *Umachurn Rai*, VII W. R. Civ. Rul. 44: *Mussamut Bibi Fazlan &c.* v. *Sheikh Abdula &c.* (suit for a kabúliyát), VII W. R. Civ. Rul. 170: *Ram Sundur Chakravartti, &c.* v. *Ramesur Acharji &c.* VIII W. R. Civ. Rul. 454: *Madhab Jana &c.* v. *Raj Kissen Mukherji*, VII W. R. Civ. Rul. 86, and III R. C. & C. R. Rent Rul. 20: *Mirtanjai Chakravartti* v. *Raja Bardakant Rai*, II R. C. & C. R. Rent Rul. 21: *Kristo Mohun Pattur* v. *Hari Sunker Mukhapadhyay*, III. R. C. & C. R. Rent Rul. 43: *Romesh Chandra Datta* v. *Guru Das Nandi and another* (suit for enhancement of rent), Suth Rep. to July 1864 Civ. Rul. 204: *Matangini Debya* v. *Mahomed alias Buri Mia*, Suth Rep. to July 1864 Act X Rul. 30: *Babu Raj Kissen Mukherji and others* v. *Babu Jaikissen Mukherji and others*, Suth. Rep. to July 1864 Act X Rul. 119: *Hera Ram Bhattacharyya* v. *Ashraf Ali*, IX W. R. Civ. Rul. 103 (suit for enhancement of rent): *Nur Ali and others* v. *Intiyaz udin Khan*, IV N. W. P. Rep. Rev. Ap. 2 (claim for rent is not maintainable until a suit has been brought to have the land assessed and the rent rate determined): *Pradhan Gopal Singh &c.* v. *Bhup Rai Ojha &c.* IX W. R. Civ. Rul. 570: *Moti Lal* v. *Janaki Rai*, V. N. W. P. Rep. Civ. Ap. 364 (a Benares case, but *in pari materiâ*): *Nehal Chandra Mistri* v. *Hari Persad Mudal*, VIII W. R. Civ. Rul. 183 (suit for enhancement of rent, plea that part of the land is lakhiráj). *Maharajah Ramnath Singh Bahadur* v. *Haro Lal Pandey &c.* (suit for a kabúliyat) VIII W. R. Civ. Rul. 188).

case of *Mahomed Munsur* v. *Umbica Charan Rai and others* (Suth. Rep. to July 1864 Civ. Rul. 132) *Steer, J.* said—"We think that this suit is not necessarily barred because the area of the lands sought to be resumed is in excess of one hundred bíghás. Before the plaintiff's right to sue can be declared to be barred, it must be shown that the lakhiráj lands are held under a *sanad* in excess of 100 bíghás or under different *sanads* each in excess of 100 bíghás. Though the plaint does not distinctly say that the land is held under different *sanads*, *it must be inferred that that is the plaintiff's case, otherwise he could not sue at all.* The defendant does not claim that he holds the land under one *sanad*, therefore there is a total absence of any evidence upon the point. The case must therefore be remanded, in order that it may be ascertained whether the defendant holds under one or more *sanads* each in excess of 100 *bíghás*." In the case of *Rájá Jogendronarain Rai* v. *Hurri Das Rai* (Suth. Rep. to July 1864 Civ. Rul. 145) *Trevor, J.* said—"When land in extent beyond 100 bíghás is admittedly held by a *lakhirájdár*, *the presumption is that it is held under one grant, and that it is resumable by Government and not by the zemindár.* In order therefore to rebut the presumption, it is necessary for a zemindár suing to resume under these circumstances to show that the land, though beyond 100 bíghás in extent, is held under different *sanads*. If evidence of this nature is not produced, the presumption remains unrebutted and must prevail. This legal necessity is known to all and, if not met, such failure can give no ground for a remand in order to enable parties to supply this defect in the case caused by their own negligence." In the case of *Shebosúndarí Debya and others* v. *Syud Mahomed Ali and others* (Suth. Rep. to July 1864 Civ. Rul. 137) *Raikes, J.* said—"Plaintiffs therefore have, in our opinion, failed to start their case by showing that the lands in suit were ever *mál* lands of his *patni*, and the lands being more than 100 bíghás and not therefore resumable by plaintiffs in the absence of a valid *lakhirdj* title, plaintiffs have no ground of action for maintaining this suit." In this last case, the plaintiffs had alleged that the lands had been fraudulently converted into *lakhirdj* after 1790.[1]

Extent of resumable Grants.

It follows from the decision in the case of *Sonaton Ghose* that a suit properly framed under s. 30, Reg. II of 1819, is concerned only with *lakhirdj* created prior to the 1st December 1790 and is necessarily not one to which the rule created by s. 10, Reg. XIX of 1793, of all exemption from limitation, applies, *Hira Maní Dabí* v. *Kunj Behárí Haldar and another* II. W. R. Civ. Rul. 207. From a comparison of these two cases, the following propositions were established in *Khelal Chandra Ghose* v. *Púrno Chandra Rai and others* (II W. R. Civ. Rul. 258) 1*st* Where proceedings were instituted in the ordinary Civil Courts before the 31st December 1861 (*i.e.* before the Limitation Act XIV of 1859 came into operation), to enforce a right under s. 10, Reg. XIX of 1793, *no rule of limitation applied.* 2*nd* In suits instituted subsequent to that date the effect of cl. 14, s. 1, Act XIV of 1859, must be taken into consideration. 3*rd* As s. 10, Reg. XIX of 1793 applies only to grants made since 1st December 1790, the *onus* of proving that the case falls within this section is on the zemindár who must show that the land claimed as *lakhirdj* is part of his *mál* land and was assessed with the public revenue at the time of the Decennial Settlement.[2] A zemindár, who sued in the Collector's Court under the provisions of s. 28, Act X of 1859 to resume lakhiráj alleged to have been created after 1790, was bound by the twelve years' rule of limitation contained in that section *i.e.* from the first day of August 1859, the date on which Act X came into operation, as provided by s. 167. Clause 14 of s. 1 of the

Limitation in Suits to resume Grants posterior to 1790.

[1] See also the following cases: *Gopal Chandra Rai and others* v. *Udhab Chandra Malik and others*, Suth. Rep. to July 1864 Civ. Rul. 156: *Barbara Amina John Elias* v. *Munshi Mahomed Tizir and others*, Suth Rep. to July 1864 Civ. Rul. 217: *Bir Chandra Jubraj* v. *Umakant Sen Bahadur*, Suth Rep. to July 1864 Civ. Rul. 232. *Hera Lal Seal* v. *Nehal Chandra Goshami*, II Sev. 186.

[2] See also *Parbati Charan Mukhapadhyay* v. *Rajkrisno Mukhapadhyay*, B. L. R. Sup. Vol F. B. 162.

Limitation Act, XIV of 1859, contained a similar rule of limitation, *viz.* twelve years from the time when the title of the person claiming the right to resume and assess such lands or of some person under whom he claims first accrued, *provided* that in estates permanently settled no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained if it is shown that the land has been held lakhiráj from the period of the permanent settlement.[1]. Act XIV of 1859 did not however come into operation until the 1st January 1862. The result was that between the 1st August 1859 and the 1st January 1862 a zemindár by choosing the Civil Court as his tribunal instead of the Collector's Court obtained this advantage, that he was not bound by any rule of limitation but enjoyed the benefit of the *nullum tempus* provision in s. 10, Reg. XIX of 1793. It may however be well to observe that this *nullum tempus* provision had been modified by an important decision of the Privy Council in a case, the facts of which were as follow—A, by an instrument dated 10th February 1796, granted certain land rent-free to B for the support of an idol. On the 15th April 1857, A's descendant, C, without having made any previous demand for rent or having brought a suit to assess the land, sued B's descendant, D, for the rent of the preceding six years and nine months in accordance with the rate of rent obtaining in the particular place. C obtained a decree in the lower Courts. D appealed to the Privy Council urging, 1*st*, that the original grant had not been annulled by any Regulation: 2*nd*, that possession had become unimpeachable by reason of lapse of time: 3*rd* that in order to maintain the action it should have been preceded by a suit for assessment of rent or by a demand of rent in some way ascertained. The appeal was undefended. The Lords of the Privy Council did not therefore consider it prudent to enter into or express any opinion on the first or third points. They based their decision on the second point only and this without deciding whether the period of limitation applicable was *twelve years* or *sixty years*. They were of opinion that the suit against D ought to have been dismissed in consequence of her and those under whom she claimed having been in peaceable possession for sixty years before the suit was commenced and of the suit being therefore barred by the early part of the third article of the Bengal Reg. II of 1805. It was observed that, although the non-payment of rent was in one sense the cause of action, yet the right to recover rent for the preceding six or seven years depended on a possession which had been one and entire in character through the whole sixty years; and that an action for use and occupation and to recover rent could not be sustained, when an action to recover possession of the land itself was barred—*Chandra Bhati Debya* v. *Lachhi Debya Chaudhrani*,[2] I In. Jur. 25, & X Moo. Ind. Ap. 214, also V. W. R. P. C. 1. The portion of Reg. II of 1805, referred to in this judgment, has been repealed by Act VIII of 1868, saving as provided in s. 1. *id.* which however protects *any right or title acquired before the passing of the Act.*

The effect of the proviso to the rule of limitation contained in cl. 14, s. 1, Act XIV of 1859 and in Article 30, Schedule II of Act IX of 1871 is that persons holding lakhiráj lands in *permanently settled* estates and who can prove that they have held such lands as lakhiráj since 1790 are now absolutely protected from resumption. In the case of *Sristidhur Sawant and others* v. *Ramanath Rokhit* (VI W. R. Civ. Rul. 58, and II R. C. & C. R. Civ. Rul. 62) the Court remarked that under the proviso to cl. 14, s. 1, Act XIV of 1859 the defendant had only to show possession

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[1] The rule of limitation now in force is the same and is contained in Article 130, Schedule II of the Indian Limitation Act, IX of 1871.

[2] See also the following cases: *W. Ferguson* v. *The Government and Dwarkanath Singh*, VIII W. R. Civ. Rul. 232, & IV R. C. & C. R. Civ. Rul. 152: *James Erskine* v. *Manick Singh Ghatwal and others*, VI W. R. Civ. Rul. 10, & II R. C. & C. R. Civ. Rul. 33: *Gopal Chandra Saha* v. *Bhabo Tarini Dasi &c.* VII W. R. Civ. Rul. 420, & III R. C. & C. R. Civ. Rul. 153. *James Furlong* v. *Khusru Mandar and others* VII W. R. Civ. Rul. 531.

as *lakhirâj* before 1790 to bar the plaintiff's suit, unless the plaintiff could show, in order to rebut defendant's evidence of possession as *lakhirâj* before 1790, that rents had been collected from the land, or otherwise show that it was *mâl*; that, the burden of showing possession before 1790 being on defendant, plaintiff's case, if he could not rebut this evidence, must be dismissed as barred by the absolute limitation contained in the above proviso. Where the defendant's evidence showed a possession only a few years short of 1790, possession from 1790 was inferred from collateral facts and other evidence—*Hiramani Debi* v. *Loknath Mandal* &c. II W. R. Civ. Rul. 135. A purchaser at a sale for arrears of revenue has now no greater privilege in this respect than any other proprietor—*Radha Krishto Myti and others* v. *Bhagwan Chandra Bose and others*, I W. R Civ. Rul. 248. An auction-purchaser allowed twelve years to run out in his lifetime without suing to resume, and also permitted twelve years to elapse from the date of the Special Commissioner's decision upholding the *lakhirâj* without taking steps to dispute such decision. *Held* that it was unnecessary to decide whether the suit ought to have been brought under s. 28, Act X of 1859, or was properly instituted under s. 30, Reg. II of 1819, it being clear that under either section it was barred by limitation as against plaintiff the heiress of the auction-purchaser, as the time for suing had run out in her father's life-time—*Nabi Buksh* v. *Mussamat Amatúla*, Suth. Rep. to July 1864, Act X Rul. 132.[1]

Limitation in suits to resume Grants anterior to 1790.

The following important question has come before the Calcutta High Court for decision in several cases, *viz.*—"Is the grant for valuable consideration by a *zemindár* of a specific portion of land, to be held without payment of rent, valid as against the heirs of the grantor, or against purchasers of the estate by private sale?" The first case which it will be well to notice is that of *Pizirudín* v. *Madhúsúdan Paul Chaudhrí* (II. W. R. Civ. Rul. 15: and B. L. R. Sup. Vol. F. B. 75). The facts of this case were as follow—Those under whom the plaintiff claimed had in 1830 granted to the ancestor of the defendant twenty-two bighás of unculturable land, for the purpose of making a tank. The grantors had ceded all right in the land to the grantee, who was to dig the tank and *distribute water from it*, stock it with fish and plant the banks with mangoe and other trees, and enjoy the same down to his descendants. No rent was to be paid for the land, and, should the grantor or any of his heirs ever prefer a claim for rent, such claim was to be null and void. The tank having been dug by the grantee, and there being no allegation that he or his descendants had failed to distribute the water, a suit was however brought to resume the land from the descendant of the grantee. The grant was upheld and allowed in this particular case on the ground that it did not come within the mischief, to prevent which s. 10, Reg. XIX of 1793 was passed, which declares null and void all grants for holding land exempt from the payment of *revenue* made since the 1st December 1790. The object of this law, it was said, was to prevent the interests of Government being prejudiced by reason of the *rent* or *revenue*, remaining to the zemindár and accruing from the other portions of the estate, being insufficient to meet the public demand for the whole estate. Government had also intended to protect the rights of the descendants of the zemindár and to prohibit grants, which would be seriously detrimental to those rights. But the grant of land for a tank, in order to secure water (the want of which was mentioned in the grant) for the use of the inhabitants of the village, might fairly be held to increase the security of Government by placing the zemindár in a position to

Can a Zemindár make a valid grant of land to be held rent-free?

[1] See also on the subject of limitation the following cases: *Sagore Mani Dasi and others* v. *Bipro Das Dey and others*, I W. R. Civ. Rul. 249: *Maneah Lal Babu* v. *Malkessir Banerji and others*, I W. R. Civ. Rul. 297: *Okhoy Ram Jana* v. *Syud Mahomed Hosen and others*, Suth. Rep. to July 1864, Civ. Rul. 22: *Ramphal Rai &c.* v. *Ram Shurn Tiwari*, II Sev. 419: *Hira Lal Seal* v. *Nizamat Khan*, II Sev. 52a: *Srinath Jah* v. *Forbes*, II Sev. 80a (auction-purchaser may sue within twelve years i.e. under the old law.)

discharge the Government revenue. On these grounds Norman, *Officiating C. J.* held the case not to be within the mischief intended to be guarded against by the old Regulations, and to be out of the purview of the enactment which would otherwise have made a rent-free grant void. It is evident that this particular case might have been decided on the above grounds without entering into the general question of the power of zemindárs to make *rent-free* grants. But, the case having been referred to a Full Bench of five Judges for the purpose of obtaining a decision on this general question, the Judges proceeded to pronounce their opinions thereupon. The Officiating Chief Justice held that rent-free grants by zemindárs are as a rule null and void, but made the particular case an exception to this rule. *Trevor, J.* held all rent-free grants to be void, and would not have excepted this grant for a tank as not falling within the mischief legislated against. *Loch, J.* expressed a similar opinion. *Sumbhúnath Pundit, J.* was not decided as to the general question, but as to the particular case agreed with the Chief Justice. *Levinge, J.* held *rent-free* grants to be legal and valid as between the parties, and voidable only as against an auction-purchaser. It will thus appear that three Judges were agreed as to the general question, deciding that a *zemindár cannot make a rent-free grant of land comprised in his estate, so as to be binding on him and his privies.*

Levinge, J. alone considered that there was no express law, which declared a grant of land, free of *rent* payable to the zemindár, to be null and void. He drew a distinction between *rent* and *revenue*, holding that the words 'exempt from the payment of revenue' in s. 10, Reg. XIX of 1793 were not synonymous with 'rent-free,' and referring to the remark of a Judge of the late Sádr Court in a similar case, viz. "The tank has been improperly termed *lakhiráj*. It is not *lakhiráj*, for it has not been exempted as such from the general estate for which the zemindár pays revenue to Government." He referred to other portions of the Regulations, which conferred proprietary rights on the zemindárs and empowered them to transfer by sale, gift *or otherwise* such proprietary rights in the whole or any portion of their estate, and argued that such proprietary rights would have no real existence, if a zemindár could not make the disposition contended for. He pointed out that a lease in perpetuity at a peppercorn rent (which it is admitted any zemindár can make since the passing of Reg. V of 1812) would be just as injurious, so far as the interests of his posterity or of Government were concerned, as a grant of a portion of the estate *rent-free*.

Before the case of *Pizírudín* v. *Madhúsúdán Paul Chaudhrí* was decided, another case involving the same general question had been referred to and argued before another Full Bench of five Judges, who were not agreed and had therefore taken time to consider their decision. Before judgment was pronounced, two of the Judges were compelled by ill-health to leave India. It has been pointed out that *Pizírudín's* case might have been decided without going into the general question, the determination of which was not necessary for the decision of that particular case. It was therefore considered desirable to have the case just mentioned, *Mahomed Akil* v. *Asadannissa Bibí* (B. L. R. Sup. Vol. F. B. 774: IX W. R. Civ. Rul. 1: V. R. C. & C. R. Civ. Rul. 69), in which judgment had not been pronounced, and which directly raised the general question, argued again before a Full Bench of nine Judges. The Court were again unable to agree, and therefore took time to consider their judgment. Before judgment was pronounced two of the nine Judges retired from the Bench and one died, all these having however previously sent in to the office of the Registrar their written opinions on the subject argued before them. The remaining Judges who composed the Court were unanimously agreed that these written opinions, thus sent in to the Registrar's office and not delivered in Court, could not be regarded as judgments; and that the case therefore fell to be decided according to the opinions of the

Leading Case of *Mahomed Akil* v. *Asadannissa Bibi.*

remaining *six* Judges, who delivered judgment in Court on the 14th December 1867. These six Judges were equally divided, and the decision was therefore (under the provisions of s. 36 of the Letters Patent,) in accordance with the opinion of the learned Chief Justice (Peacock), who in an able and exhaustive judgment maintained that a rent-free grant made by a zemindár of a specific portion of land, *after* a permanent settlement of the estate to which it belongs, is valid as against the grantor and his heirs, or a purchaser of the estate by private sale. It was premised that the question related to grants made *since the 1st December* 1790, and to lands included in and forming part of the *mâl* lands of a permanently-settled estate, for the revenue of which the zemindár had engaged and was liable to Government, and for the arrears of which the whole estate was liable to be sold; that the question was not as to whether the grant would be void against a purchaser at a sale for arrears of Government revenue (as to its being void in this case there never had been any doubt), but as to whether the grantor or his privies can treat the grant as void and turn the purchaser out of possession. The learned Chief Justice denied that the terms "revenue-free" (lakhiráj) or "exempt from the payment of revenue" and "rent-free" were synonymous. He vindicated the framers of the Code of 1793 from having used the words "revenue" and "rent" loosely at different times with different significations; from having confounded "revenue" and "rent" together; from having said "revenue-free" when they meant "rent-free," and so of having inconsistently neglected the provisions of another portion of the same Code passed on the same day, *viz.* Reg. XLI of 1793, which enacted that in the Regulations the same designations and terms should be applied to the same description of things, in order that rights, property, tenures and generally all persons and things should be uniformly described by the same designations and terms throughout the Judicial Code. He pointed out that "revenue" was used throughout to signify what went to or was payable to Government; that, where there was no revenue settlement, temporary or permanent, the rents or share of the produce payable by the occupiers of the land were treated as *revenue* belonging to Government; that, when an estate was settled, the *revenue* and *rent* became perfectly distinct; that Reg. XIX of 1793 was a re-enactment of the Rules of the 1st December 1790; that in these rules the word "rent" had been used, where "revenue" is used in the Reg. of 1793, clearly because in 1790 the lands had not been settled, and the then "rent" was the Government "revenue;" but in 1793 the "revenue" was the public demand fixed for ever on each estate and payable by the zemindárs. He showed that although Government was by the *old law of the country* (Preamble to Reg. XIX of 1793) entitled to a proportion of the produce of every bígha of land, this assertion of right was accompanied by the words "*unless it transferred its right thereto for a term or in perpetuity* or limited the public demand upon the whole of the lands belonging to an individual," which was the very thing Government had done at the Permanent Settlement, after which, therefore, it was impossible to say that any particular portion of the sum, which the zemindár had engaged to pay as revenue for the whole estate, was the separate revenue of any particular bígha or portion of the estate. He noticed that Reg. XIX of 1793 divides lakhiráj grants into three classes: (1) grants made before 12th August 1765; (2) grants made between 12th August 1765 and 1st December 1790; and (3) grants made after 1st December 1790—that lands included in grants of the first two classes were (s. 36, Reg. XVIII of 1793) excluded from the Permanent Settlement—Government having expressly reserved the right to assess these grants for its own benefit—while lands included in grants of the third class were comprised in the settlement and in the estates for which engagements were executed by *zemindárs*, who were therefore properly empowered to collect the rents of these lands; that after the Permanent Settlement Government could not alienate the rents payable to the zemindárs by their tenants, and if "*revenue-free*" were equivalent to "*rent-free*" the words

Rent-free grants by Zemindárs are binding on the grantor and his privies.

in s. 10, Reg. XIX of 1793, "by any other authority than that of the Governor-General in Council," could have no proper application. Remarking that, when the Code of 1793 was passed, all the lands in the districts intended to be permanently settled had not been decennially or permanently settled, he pointed out the necessity of providing against lakhiráj grants which might be made between the 1st December 1790 and the conclusion of the Permanent Settlement; that s. 10, Reg. XIX of 1793, was directed against such grants, for, if it were held not to extend to these grants, the Regulations contained no provision against them. Referring to the recital in Reg. XLIV of 1793, he showed that Government drew a clear distinction between the public demand or *revenue*, and the *rent* payable to the zemindárs; that Government foresaw the probability of zemindars diminishing their resources by making grants of dependent *talúks* or leases at an inadequate rent; and, not considering s. 10, Reg. XIX of 1793, sufficient to restrain this mischief, proceeded to restrain it by enacting (Reg. XLIV of 1793) that leases should not be given for any term longer than ten years; that Reg. XIX of 1793 was not concerned with the improvidence of the zemindárs, but with alienations of the Government revenue, with grants exempt from the payment of revenue, *i.e.* exempt from the payment of the whole or any part of *that which* the *grantee would have been bound to pay as revenue* in the absence of the grant; that Reg. XLIV of 1793, on the other hand, had nothing to do with alienations of the public revenue, but had reference only to grants of leases or dependent *talúks* by the zemindárs, not to grants passing the whole proprietary rights of the zemindár, which are expressly provided for by ss. 9 and 10, Reg. I of 1793. The learned Chief Justice then reviewed the cases decided by the late Sádr Díwání Adálat and showed that the majority of them favoured the view taken by himself; he traced the origin of the mistaken impression that grants not reserving any rent are void, but that grants which reserve a more nominal rent are valid and binding. A zemindár has full power to assign by way of gift, sale, mortgage, or otherwise the *rents* of any of his dependent *talúks* or leases. What object could there be in compelling him to reserve a rent, which the next moment he might assign away? He considered the following four propositions clear as regards permanently-settled estates:—

I. That the only *revenue* payable to Government for an estate is that which the zemindár has engaged to pay to Government.

II. That the zemindárs are proprietors of the soil (s. 1, Reg. II of 1793).

III. That, as such, they are entitled to the *rents* of the lands included in their estates and to distrain for such rents (Regs. XIX and XVII of 1793).

IV. That such *rents*, being the property of the zemindárs and not the property of Government, are not Government *revenue* and cannot be alienated by Government, and that the zemindárs are not bound to account for or pay over to Government any portion of their *rents*.

He showed that from these propositions it followed—

I. That, after a Permanent Settlement, a grant by a zemindár to hold lands "rent-free" is not a grant to hold free from the payment of revenue.

II. That such a grant is void as against a purchaser at a sale for arrears of revenue; but that, as long as the revenue is paid, it cannot be treated by Government as a nullity, as affecting their interests injuriously.

III. That a rent-free grant cannot be treated as a nullity by the grantor or his heirs or by any person claiming through him.

The decision in the case of *Mahomed Akil* v. *Assadunissa* overrules in whole or in part the *dicta* laid down in the following cases:—*Pizírudín* v. *Madhúsúdhun Paul Chaudhrí*, II W. R. Civ. Rul. 16, & B. L. R. Sup. Vol. F. B. 75: *Judonath Sirhar and another* v. *Bonomáli Mittra and others*, II W. R. Civ. Rul. 295.

A zemindár had no power before the Permanent Settlement to grant a rent-free tenure or a tenure at a less rent than the share of the produce payable to Government for revenue, and it is clear that zemindárs had no power to grant *jagírs*—*Rájá Nilmaní Singh Deo.* v. *The Government and others*, VI W. R. Civ. Rul. 121.

The High Court of the North-Western Provinces held in the case of *Ahmadúlah* v. *Mithú Lal &c.*, IV N. W. P. Rep. Civ. Ap. 186, that it was competent to a zemindár to make to his daughter on the occasion of her marriage a grant of land to be held as *sír i.e.* free from payment of *rent*, but not free from payment of *revenue*.

Can a Patnídár resume Lakhiráj land?

In the case of *Gya Rám Mandal* v. *Gya Rám Naik* (Wy. Rent Rep., 51), *a patnídár* sued under s. 30, Reg. II of 1819, to resume an alleged *lakhiráj* tenure situate within his *patní*. It was objected that he had filed no title-deeds showing that a power to resume was expressly given to him, but the Court held that every right which the zemindár could himself exercise passed to the *patnídár*, and that it was for the defendant who objected to the exercise by the *patnídár* of an ordinary legal right incidental to his tenure, to give some *primâ facie* evidence as to the ground on which that objection was founded before plaintiff could be called upon to produce his title-deeds. In the cases of *Munneah Lal* v. *Mulkessur Bannerji* and *Sonaton Ghose* v. *Abdul Farar* already referred to, the plaintiff was a *patnídár*, and it does not appear from the report that any objection was raised on this point. In the case of *Okhoy Rám Jana* v. *Syud Mahomed Hosen and others* (Suth. Rep. to July 1864 Civ. Rul. 212), a zemindár sued to resume, and it was objected that, as he had given his property in *patní* to a third party, he had no right of action. The Court, however, decided that a zemindár who grants his estate in *patní* has still such an interest in the property as entitles him to challenge the right of another who asserts to hold it adversely to him on a lakhiráj title, for the proprietary title is in him, and whatever is to the injury of his proprietary title is a valid cause of action to him. In considering these decisions, it may be observed that in the last case quoted the *lakhiráj* was asserted to have been in existence before 1790. In the case of *Gya Rám Mandal*, it does not appear from the report when the lakhiráj was created. It may be perhaps material to consider this point. There is nothing in Reg. VIII of 1819 to show that the creation of a *patní* (which is spoken of as a "tenure") is a transfer of the zemindár's *proprietary* rights (see ss. 10, 11, Reg. I of 1793), the *zemindár* usually remains responsible for the payment of the land-revenue, though the *patnídár* sometimes stipulates (for his own protection) that he shall pay a portion of the reserved rent into the Government Treasury to meet the Government claim for land-revenue. Section 6, Reg. XIX of 1793, confers the power of resuming grants not exceeding 100 bíghás alienated *before* 1790, on the *person responsible for the discharge of the revenue of the estate or dependent talúk* (such dependent *talúks* no doubt as are referred to in s. 6, Reg. VIII of 1793) *in which the land may be situate*. It might well be contended that the zemindár, being the person responsible for the revenue, can alone sue to resume these grants, which as having been expressly *excluded* from the settlement could not be supposed to be included in any lease of the *mâl* lands. With respect to grants made after 1790, though s. 10, Reg. XIX of 1793, expressly authorizes the person *possessed of the proprietary right* to dispossess the grantees and collect the rent, yet as the *patnídár* is beyond controversy an assignee of so much of the proprietary right as entitles to

collect rents, and as moreover these grants were included in the *mâl* land at the time of the Decennial Settlement, it might seem that the right of resumption here also belonged to the *patnidár*.

Lakhirájdar cannot sue for resumption.

A *lakhirájdár* cannot sue to *resume* alleged *lakhiráj* land within his *lakhiráj* property. He has no inherent right of *resumption* in the ordinary sense of the term. If any portion of his land he encroached upon, he has his right of action like any other injured person; but like any other plaintiff he must start and prove his case—*Kaim Khan* v. *Mussamat Bibí Sáheba Jan and others*, VII W. R. Civ. Rul. 362. A *lakhirájdár* has a right to gradual accretions to his lakhiráj property, there being nothing in the alluvion law, Reg. XI of 1825, to deprive him of such right—*Pathíram Chaudhrí* v. *Kerthínarain Chaudhrí*, I W. R. Civ. Rul. 124.

A rent-free holder, who has encroached on the adjoining land and has enjoyed the encroachment rent-free for more than twelve years, can neither be dispossessed of it, nor assessed in respect of it, and is not liable to a suit for determination of rent rates—*Bhagauti Charan* v. *Babú Siva Pershad*, I N. W. P. Rep. Civ. Ap. 38.

The mere fact of Government having released land under 50 bighás in extent (such grants being resumable not by Government but by the zemindár) is not *per se* a bar against the zemindár seeking to resume it as invalid *lakhiráj*—*B. O. Elias* v. *Brahmo Mayí Barmani*, II W. R. Civ. Rul 42: *B. A. I. Elias* v. *Múnshí Mahomed Pízír and others*, Suth. Rep. to July 1864 Civ. Rul. 217.

Former holder of resumed Lakhiráj becomes the tenant of the zemindár.

If the *ex-lakhirájdár* continues to hold the land in respect of which a decree for resumption has been passed, he is liable to rent; but if the zemindár neglect to assess a proper rent upon him, he cannot be turned out or treated as a trespasser—*Brojonath Datta* v. *Jaikissen Mukerjí*, IV W. R. Civ. Rul. 69: *Haribau Barhal and others* v. *Jaikissen Mukerjí*, VI W. R. Civ. Rul. 92: *Bhúpal Chandra Biswas, &c.* v. *Khan Mahomed Mulla, &c.* VI W. R., Civ Rul. 286. Certain *lakhiráj* land was resumed, but for some years Government took no steps to settle. At length, when a settlement of the whole estate was being made under Reg. VII of 1822, the resumed lands were assessed and included in the *jamabandí* of the estate then prepared. The ex-lakhirájdár had the usual notice, but failed to appear, nor did he afterwards sue in the Civil Court to set aside the settlement of the Revenue Authorities. When sued for rent by the person who had taken a farm of the estate from Gorvernment, he contended that plaintiff must show his right to treat him as a tenant; and that, even if he were a tenant, he was entitled to notice before rent could be demanded of him, and he relied on the case of *The Nawab Nazim of Bengal* v. *Rám Lal Ghose* (VI W. R. Act X Rul. 5). The High Court however distinguished plaintiff's from that case, inasmuch as the plaintiff had there sued for *enhanced* rents under the *jamabandí* alone, and without having served notice of enhancement, while here the *jamabandí* merely fixed the rents for the first time. It was observed that the fact of resumption and settlement created the legal relation of landlord and tenant between the Government or its assignee and the *ex-lakhirájdár*, which latter had the right of contesting the jamabandí in the Civil Court, had he chosen so to do; and could even afterwards sue under Act X of 1859 for abatement, if the rate fixed were too high. Not having done so, he must be bound by the *jamabandí*, the law providing that acts of Settlement Officers are valid and binding as long as they are not properly set aside by a Civil Court at the request of the party interested to see them set aside—*Haro Pershad Rai Chaudhrí and others* v. *Shama Pershad Rai Chaudhrí and others*, III R. C. & C. R. Act X Rul. 7. A decree of the Civil Court declaring the zemindár's right to assess rent on land, not proved to have been held under a grant prior to 1st December 1790, is sufficient to establish the relation of landlord and tenant between the zemindár and the party against whom the right of assessment was declared—

Saudamani Debya and another v. *Sarup Chandra Rai and others*, VIII B. L. R. Ap. 82. Although the *ex-lakhirájdár* has a right to a settlement and to hold the land as a tenant, it would appear that this right is not transferable—*Mahesh Chandra Bhattacharjya* v. *Romanath Dutt and others*, XX W. R. 7.

A zemindár obtained a decree declaring his right to assess rent upon certain land held as *lakhirájí*, but failed to enforce it within three years of its being passed. *Held* that though incapable of execution after three years, it was nevertheless binding upon the parties as to the question of title—*Ram Súndarí Debya Chaudhrain* v. *Ram Persad Sadhú and others*, VIII W. R. Civ. Rul. 288.]

REGULATION XXXVII OF 1793.

A REGULATION *for re-enacting with modifications the Rules passed on the 23rd April* 1788 *and subsequent dates for trying the Validity of the Titles of persons holding or claiming a right to hold Altamgha, Jagír and other Lands exempt from the payment of public Revenue, under Grants termed Badshahí or Royal; and for determining when certain Grants of that description shall be considered to have expired; and for fixing the Amount of the public Revenue to be assessed upon the Lands, the Grants for which may expire or be adjudged invalid.*—PASSED *by the Governor-General in Council on the* 1st *May* 1793.

Preamble.

BY the ancient law of the country the Ruling Power is entitled to a certain proportion of the produce of every *bígha* of land, unless it transfers its right thereto for a term or in perpetuity. As a necessary consequence of this law, every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void. Had the validity of such grants or alienations been admitted, it is obvious that the Public Revenue would have been liable to gradual diminution. Under the Native Government grants were occasionally made of the Government's share of the produce of lands for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services. The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the *Díwání*, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees. No complete register of these grants having been formed on the Company's accession to the *Díwání*, nor subsequent to that period, many persons have retained possession of lands under fabricated or antedated grants, or have succeeded to life grants on the demise of the original grantee or former possessor, without the sanction of Government. The Governor-General in Council deeming it incumbent on him to resume

the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and—as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority—the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded; it was made a rule at the time of forming the Decennial Settlement, and which has been re-enacted by section 34, Regulation VIII, 1793, that the *jamá* assessed upon the estates of individuals, was to be considered "as exclusive and independent of all existing *lakhiráj* lands, whether exempted from the *khiráj* or public revenue, with or without due authority;" and by the third clause of the seventh article of the Proclamation contained in Regulation I, 1793, which specifies the conditions under which Government declared the Decennial Settlement permanent, it is expressly stipulated, "that the Governor-General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles." The Governor-General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them. With this view, and to obviate all injustice or extortion in the enquiry into the titles of persons possessing lands under such grants he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation,) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree. Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct Register of the lands in the several *zillahs* held exempt from the payment of revenue under *Badshahí* grants, the following rules, containing the rules passed on the 23rd April 1788 and subsequent dates with modifications, have been enacted.

[See Regs. II of 1819, IX of 1825 and III of 1828]

Badshahi grants made previous to the 12th August 1765 declared

II. *First. Altamgha, jagír, ayma, madadmâsh* or other *Badshahí* grants for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company's accession to the *Díwání*, shall be

deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

valid, provided the grantee obtained possession before that date, and has since held possession. Grants made before the *Díwání* of no validity, if possession was not obtained prior thereto, or the grant has since been resumed by authority.

[As to *altamgha*, see page 1, note. As to *jagír*, see page 53, *ante*. *Ayma* or *aima* were grants rent-free or at a small quit-rent to learned and religious Mahomadans or for Mahomadan religious and charitable uses. *Madadmâsh*, literally, "assisting subsistence" were grants for the support of learned and religious Mahomadans or of benevolent institutions. The difference between these grants is not always very clear, see *Jewan Dass Sahu* v. *Shah Kabirudin*, II Moo. Ind. Ap. 390.]

Second. In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a *Badshahí* grant made previous to the date of the Company's accession to the *Díwání*, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the Governor-General in Council, the Court is to decide accordingly. No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any *Zillah* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years, and proceeded in it, as required by section 14, Regulation III of 1793.

Courts to refer to the Governor-General in Council, in the event of their entertaining doubts as to the authority of any officer of Government who may have resumed *Badshahí* grants of land made before the *Díwání*.

Claims to hold exempt from revenue under *Badshahí* grants lands that have paid revenue for twelve years, not to be heard. Exception.

[See s. 3, Reg. XIV of 1825.]

Third. But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a *jagír* or other grant made previous to the Company's accession to the *Díwání*, where the grant may expressly specify it to have been given for the

Persons, not being the original grantees, not to be entitled to hold exempt from the payment of revenue.

life of the grantee only, or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant from the nature and denomination of it shall be proved to be a life tenure only, according to the ancient usages of the country.

Nor to entitle the heirs of persons now possessing exempted lands under life grants made previous to the *Díwání* to hold such lands exempt from the payment of revenue upon the death of the present possessor.

Fourth. Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a *jagír* or other *Badshahí* life grant made previous to the *Díwání*, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life tenure only according to the ancient usages of the country.

The present possessors of such life grants prohibited from transferring them, or mortgaging the revenue of them beyond their own lives.

Fifth. The present possessors of lands now exempt from the payment of revenue under such *jagír* or other life grants, made previous to the *Díwání* and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made are declared illegal and void.

All grants made or confirmed since the *Díwání*, excepting by the authority of Government, or its officers duly empowered, declared invalid.

III. *First.* All *Badshahí* grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765 by any other authority than that of Government, and which may not have been confirmed by Government or by any officer empowered to confirm them, are declared invalid.

Courts how to proceed in the event of their entertaining doubts of the authority of the officer to confirm the grant.

Second. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the Governor-General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the Governor-General in Council, shall decide accordingly.

Questions regarding the proprietary right in lands included in grants, to be determined in the *Díwání Adálat*.

IV. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under *Badshahí* grants, and whether Government is entitled to resume or retain such revenue or otherwise. Every dispute or claim regarding the *zemindárí* or proprietary right in lands included in any grant is to be considered as a matter

of a private nature between the contending parties, and is to be determined in the *Díwání Adálat.*

[See *Mahomed Israil* v. *J. P. Wise*, XXI W. R. 327. See also ss. 15, 16 and 17 of Reg. VII of 1822.]

V. When a *jagír* or other life grant shall escheat to Government, the Collector is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue, who are to obtain the orders of the Governor-General in Council regarding the resumption of the grant.

Collectors to attach the revenue of lands in escheated grants.

VI. When any *badshahí* grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation VIII, 1793, with the person possessing the *zemindárí* or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the *jamá* demanded of him, the lands shall be held *khas* or let in farm, as directed in that Regulation.

Lands included in resumed grants to be assessed, and the revenue to be paid by the proprietor according to the Regulations for the decennial settlement.

X. Any person having a claim to hold lands, paying revenue, exempt from the payment of revenue under a *badshahí* grant, must institute his claim against Government, who alone can be the defendant in such suits, in the *Díwání Adálat* of the *zillah* in the same manner as in cases where individuals may claim a right to hold lands, paying revenue, exempt from the payment of revenue under grants not of the description of those termed *badshahí*, in virtue of Regulation XIX, 1793. The Collectors of the revenue are to defend all such suits as may be instituted against Government, and such suits and the suits, which the Board of Revenue may direct the Collector to institute, are to be defended or prosecuted by the *vakíl* of Government under the instructions of the Collector; and in the event of Government being cast, either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation XIV, 1793 and the other sections in that Regulation, respecting decisions given against a Collector in any *zillah* Court in suits instituted against him by any proprietor or farmer of land for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit from the commencement of it is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal from the decision of the *zillah* Court to be preferred to the Sádr Díwání Adálat, they are to report their reasons for not preferring the appeal, to the Governor-General in Council, who will direct the cause to be appealed or not in either case as may appear to him proper.

Persons claiming to hold lands paying revenue, exempt from revenue under *badshahí* grants, to sue Government. Collector to defend the suit. *Vakíl* of Government to defend or prosecute suits instituted against, or by Government. Rules to be observed by the Collector in the event of Government being cast wholly or in part.

Grants forged or altered in any respect, or antedated, declared void.

XII. If it shall appear to any Court of Judicature during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void.

Cases in and rules under which certain grants are to be transferable.

XV. *Altamgha, ayma* and *madadmâsh* grants are to be considered as hereditary tenures. These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser, and, in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation. *Jagírs* are to be considered as life tenures only and with all other life tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

Jagírs to be considered as life-tenures, unless the grant shall express otherwise.

[A grant made in 1795 A.D. and stated to be given to be held "*naslan bad naslan, batnun bad batnun*" was decided to be alienable, and not confined to the actual heirs of the original grantee—*Bithul Bhut* v. *Lalla Raj Kishore and others*, II N. W. P. Rep. Civ. Ap. 284. The decisions of the old Sádr Court as to similar grants being alienable were quoted and discussed in this case.

See s. 21, Reg. VIII of 1800 as to successions being notified to the Collector. As to Jagírs see *ante* p. 53.]

Record of lands included in grants that may become liable to the payment of revenue.

XVI. *First.* When any grant shall be adjudged invalid, or shall expire, or escheat to Government, the *pargána* in which the lands may be situated, the amount of the public revenue assessed thereon, the name or names of the proprietor or proprietors and a copy of the decree are to be entered in the Register of Intermediate Resumptions and Occurrences directed to be kept by section 28; and opposite to such entry the Collector is to insert in red ink the number of the page in the Periodical Register directed to be kept by section 17, in which the lands may stand recorded; and in the Periodical Register he is to specify in red ink the number of the page in the Register of Intermediate Resumptions and Occurrences, in which the decree adjudging the land subject to

the payment of revenue and the other entries above specified may be inserted. These entries in the Register of Intermediate Resumptions and Occurrences are likewise to be inserted in the Register of Intermediate Mutations in landed property paying revenue to Government directed to be kept by section 16, Regulation XLVIII, 1793, in order that the land may be recorded in its proper place, as an estate paying revenue to Government, in the next Quinquennial Register which may be formed agreeably to the abovementioned Regulation. The Collector is to insert in red ink opposite to the entries relating to such lands in the Periodical Register and the Register of Intermediate Resumptions and Occurrences the number of the page in the Register of Intermediate Mutations, in which the above required entries may be made; and he is also to specify in red ink opposite to such entries in the Register of Intermediate Mutations the number of the page in the Periodical Register and the Register of Intermediate Resumptions and Occurrences, in which such entries respecting the land may be inserted.

Record of land now subject to the payment of revenue, but which may be hereafter adjudged or become exempt from the payment of revenue, where to be made.

Second. When land, now subject to the payment of revenue, shall be finally adjudged on the claim of any individual to be exempted from the payment of revenue under any grant, or when the Governor-General in Council shall make any new grant, the *pargána* in which they may be situated, the name or names of the grantee, the amount of the revenue before assessed thereon and a copy of the decree or grant are to be entered in the Register of Intermediate Mutations directed to be kept by Regulation XLVIII, 1793; and the Collector is to insert in red ink opposite to such entry the number of the page in the last formed Quinquennial Register, in which such *mahál*s, villages or lands may be recorded, that the lands included in the grant may be omitted in the Quinquennial Register which may be next formed; and also the number of the page in the Register of Intermediate Resumptions and Occurrences directed to be kept by this Regulation, in which such entries are also to be recorded, that they may be inserted in their proper place in the Periodical Register of grants that may be next formed; and the Collector shall insert in red ink opposite to such entries the number of the page in the Register of Intermediate Mutations, from which they may have been taken.

Register of *badshahí* grants to be prepared.

XVII. That Government and its officers may have in their possession at all future periods a complete register of all the lands in the provinces held exempt from the payment of revenue under *badshahí* grants, a Register of all such grants shall be formed in each *zillah*. The Register is to specify the denomination of each grant, whether *altamgha*, *jagír*, or other tenure; the name of the original grantee, and the person in possession, and if the person in possession be not the original grantee, his relationship to him, if any relationship should

Contents of the Register.

exist, and in virtue of what right he succeeded to the grant; the date of the grant, the person or persons possessing the *zemindárí* or proprietary right in the lands, and the name of the *pargána, sarkar* and *súbah*, in which the land granted may be situated. The Register shall be denominated the "Periodical Register of lands held exempt from the payment of revenue under *Badshahi* Grants."

Denomination of the Register.

Board of Revenue to prepare a form for the Periodical Register. Collectors to adhere to the form.

XVIII. Upon the receipt of this Regulation, the Board of Revenue are to prepare a form for the Periodical Register and transmit a copy of it for the guidance of the Collectors, who are strictly enjoined to adhere to it.

[See s. 17, Reg. VIII of 1800.]

Holders of grants allowed one year to register them from the time specified in the following section.

XIX. All persons actually holding lands exempt from the payment of the public revenue under *badshahí* grants, and whether made or confirmed by the Government of the country for the time being or by whatever authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector of the revenue of the *zillah* in which the lands may be situated.

Publication to be made requiring all persons to register their grants.

XX. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each *zillah* in which any *jagír*, *altamgha, ayma*, or *madadmâsh* or other lands held under *sanads* or grants termed *badshahí* may be situated, upon the receipt of this Regulation is to cause the following Publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindústaní language and Nagrí character in Bahár, and attested with their official seals and signatures, to be fixed up in the principal kachahrí of the holders of grants of the description of those specified in this Regulation, and take a receipt from the holder of such grant, or the person entrusted with the management of it, specifying the date on which the Publication may be fixed up, and that he will be responsible for the paper remaining so affixed for one year from the date of it.

Publication.

"In conformity to Regulation XXXVII, 1793, every person being actually in possession of *altamgha, jagír, ayma, madadmâsh* or other land now exempt from the payment of revenue, and held under *badshahí* grants, in the *zillah* of ———, whether made or confirmed by the Government of the country for the time being or by whatever authority, are required to register the following particulars respecting such grants in the office of the Collector of the *zillah* before the expiration of one year from the date of this Publication. If any holders of such grants, who shall not register their grants either in person, or by a *vakíl* with a *vakalutnama* attested by two credible witnesses and

given for the express purpose of registering the grants, the grants will be considered liable to resumption and the lands chargeable with revenue in the same manner as other lands subject to the payment of revenue. Persons having claims only to hold land exempt from the payment of revenue under such grants, but who do not now hold the lands exempted, are not to register the lands so claimed by them.

Denomination of the grant, whether *altamgha, jagír* or other tenure.

By whom granted.

Name of the original grantee.

Name of the present possessor, and, if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

Date of the grant.

The names of the *zemindár* or other proprietor of the *maháls* or villages or lands included in the grant, whether such *zemindárí* or proprietary right shall be vested in the grantee or any other person.

The *pargána* or *pargánas* in which the lands may be situated.

A copy of the original grant, and other writings under which the land may be held."

Grants not registered within the prescribed time declared liable to resumption, unless the Governor-General in Council shall admit them upon the Register.

XXI. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the Publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall by such omission become subject to resumption and the lands shall become liable to the payment of revenue to Government. The Governor-General in Council, however, reserves to himself the power of admitting any grant upon the Register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause to his satisfaction for not having registered it within the limited period; and the Board of Revenue are to report to the Governor-General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the Register.

[See s. 19, Reg. VIII of 1800.]

Grants not registered within the prescribed period or admitted by the Governor-General in Council, to be considered forfeited.

XXII. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the Register by the Governor-General in Council, are declared forfeited, and the lands shall be assessed with revenue agreeably to the rules prescribed for the Decennial Settlement.

Registry of grants not to be considered as an admission of the possessor's proprietary right in the soil, nor of the validity of the grants.

XXIII. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person, in whose name it may be registered, to the property in the soil, nor of the validity of his grant. Any person will be at liberty to sue in the *Díwání Adálat* for the former, and he will be liable to be sued for the resumption of the grant by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the grant is invalid.

Collector to prepare the Register upon the expiration of the period limited for the registry of the grants.

Inscriptions on the back of the Register.

Book to be paged, and each page to be attested by the Judge of the *zillah*.

Judge to specify the number of pages in the book on the last leaf.

XXIV. Upon the expiration of the period for registering the grants in each *zillah*, the Collector is to prepare a draft of the Register in the form which may be prescribed by the Board of Revenue, and to cause it to be transcribed into a book of such dimensions as they may direct. The book shall have the following inscription on the back of it—"Periodical Register formed under Regulation XXXVII, 1793, of *altamgha, jagír* and other lands held exempt from the payment of revenue under *Badshahí* Grants in the *zillah* of ——— at the commencement of the year ——— Bengal (Fussily or Willaity) era, corresponding with the year ——— of the Christian era. Number ———." Each leaf of the book shall be paged, and be signed by the Judge of the *Díwání Adálat* of the *zillah;* and on the last leaf of the book he is to note in his own handwriting the number of pages in the book and subscribe the note with his signature: and no Register is to be deemed authentic but such as may be entered in a book so paged and attested. The first Periodical Register is to be numbered one.

Manner in which resumptions and other occurrences regarding grants in the intervals between the forming of the Periodical Registers are to be recorded.

XXVIII. For the purpose of recording all resumptions or new grants or other occurrences respecting the grants which form the subject of this Regulation, that may take place during the interval between the forming of each Periodical Register, and the particulars of which will be necessary for forming the second and all future Periodical Registers, the Collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated "The Register of Intermediate Resumptions, or other Occurrences, respecting *altamgha, jagír* or other *Badshahí* Grants," and shall have the following inscription on the back, "Register formed under Regulation XXXVII, 1793, of Intermediate Resumptions or other Occurrences respecting *altamgha, jagír* or other lands held exempt from the payment of revenue under *Badshahí* Grants in the *zillah* of ———, between the commencement of the year ———, and the end of the year ———, Bengal (Fussily or Willaity) era." Previous to any entries being made in this Register it is to be paged and the Judge of the *Díwání Adálat* of the *zillah* is to sign each leaf of it and on the last leaf note in his own handwriting the number of pages contained in the book and

attest the note with his signature. The Collector is to cause to be entered in this Register all grants not registered within the time prescribed in the publication in section 20, which the Governor-General in Council may order to be admitted upon the Register under section 21, all grants of land that may be adjudged or become liable to the payment of revenue, all lands now paying revenue which may be adjudged to be held exempt from the payment of revenue by any individuals under any grant, all new grants that may be made by the Governor-General in Council, and all exempted lands held under such grants which may be separated from or annexed to the jurisdiction of the *zillah*, with the authority for these several occurrences, and also the particulars for completing the requisite entries in the Register of Intermediate Occurrences in the cases specified in section 16, in which entries are directed to be made in that Register.

Documents respecting grants to be furnished by Collectors of *zillahs* from which separations may be made.

XXIX. When *mahál*s are ordered to be separated from one *zillah* and annexed to another, the Collector of the *zillah* from which the separation is to take place is to transmit to the Collector of the *zillah* to which the annexation is to be made a copy of the entries in the preceding Periodical Register, as far as they may regard the *badshahí* grants in such *mahál*s, and also of any entries respecting them in the Register of Intermediate Occurrences, which may have taken place subsequent to the forming of the last Periodical Register.

How such separations and annexations of exempted lands are to be notified to the Courts of Judicature.

XXX. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the *zillah* from which the separation may be directed to be made is to transmit to the Judge of the *Díwání Adálat* of his *zillah* copies of the entries in the last Periodical Register and Register of Intermediate Occurrences, which may relate to the grants to be separated from his *zillah*; and the Collector to whose *zillah* the annexation may be made is to transmit copies of the above mentioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the *zillah*, in which the lands may be included. Immediately on the receipt of these papers, the Courts from the jurisdiction of which the separation may be made are to transmit the papers in the causes depending before them, which in consequences of the separation may become cognizable in any other *Zillah* Court, to such Court and to cause notification thereof to be communicated to the parties in writing.

Collectors enjoined never to allow the Register of Intermediate Occurrences to fall in arrear.

XXXI. The Collectors are to attest all entries in the Register of Intermediate Resumptions and Occurrence with their official signatures, and they are strictly enjoined never to allow that Register to fall in arrear, but to make the necessary entries immediately upon any resumptions or other occurrences taking place.

How errors in the fair copy of the Periodical Register, and in the Register of Intermediate Occurrences are to be corrected.

XXXIII. When a Periodical Register shall have been transcribed fair into the book attested by the Judge of the *zillah*, as directed in section 24, if it shall be discovered that the entries respecting any grant are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased but are to stand, and the Collector is to cause the errors or omissions to be noted in the Register of Intermediate Resumptions and Occurrences, and to attest the entry with his signature, and insert in red ink opposite to the erroneous or incomplete entries in the Periodical Register the number of the page in the Register of Intermediate Resumptions and Occurrences, in which the errors or omissions may be noted, and at the end of the note specify the number of the page of the Periodical Register, in which the property may be registered. Errors or omissions in the Register of Intermediate Resumptions and Occurrences are to be noted in a similar manner.

Persons in possession of the proprietary right in the lands to be registered as the proprietors.

XXXV. If the proprietary right in any land included in a *badshahi* grant shall be under litigation in a Court of Justice at the time of forming the first or any subsequent Periodical Register, the party in possession is to be registered as the proprietor.

Holders of grants liable to be fined for omitting to furnish any information that may be required by the Collectors for preparing the Registers.

XXXVI. If a Collector shall have occasion to require from the holder of a grant any information that may be necessary to enable him to form a Periodical Register, or to make the requisite entries in the Register of Intermediate Resumptions and Occurrences, and such person shall omit to furnish it by the time required after having been served by the Collector with a written requisition for that purpose under his official seal and signature, the Collector is to report the circumstances to the Board of Revenue, who are empowered to impose on such person whatever daily fine may appear to them proper on a consideration of his situation and circumstances in life, and of the case, until he shall furnish the information required, unless he shall prove to the satisfaction of the Board that it was not in his power to furnish it. The Collector is to levy the amount of such fines by the process to which he is authorized to have recourse for the recovery of arrears of revenue. The Board of Revenue are to furnish the Collectors in the several *zillahs* with such records or information as they may possess regarding the exempted lands in their respective *zillahs*, as well to assist them in preparing the first Periodical Register, and in detecting frauds that may be attempted to be practised upon them in registering the grants, as to aid them in ascertaining what lands now held exempt from the payment of revenue under grants are liable to the payment of revenue according to this Regulation.

Board of Revenue to furnish the Collectors with all papers and information they may possess regarding the exempted lands in their respective *zillahs*.

To whom the Collectors are to send copies

XXXVII. The Collectors of the several *zillahs* are to transmit to the Board of Revenue, as early as may be practicable, an attested copy of the Periodical

Registers both in the English and the native languages, each in a book of the prescribed size, paged and attested by the Judge of the *Díwání Adálat* of the *zillah* in the same manner as the original Register, as directed in section 24, and within one month after the expiration of the third, sixth, ninth and twelfth month of the Bengal, Fussily and Willaity year (according to the era current in their respective districts), an attested copy of the entries in the Register of Intermediate Resumptions and Occurrences that may have taken place during the three preceding months.

of each Periodical Register and of the quarterly entries in the Register of Intermediate Occurrences.

[See ss. 15 and 16, Reg. VIII of 1800.]

XXXVIII. The Courts of Judicature, the Board of Revenue and the Collectors are enjoined to be particularly attentive to the preservation of the Periodical Registers and Registers of Intermediate Resumptions and Occurrences, both in the English and native languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects or otherwise.

Courts, the Board of Revenue, and the Collectors to be careful to preserve the Periodical Registers and Registers of Intermediate Resumptions.

XXXIX. The Periodical Register is to be prepared from the preceding Periodical Register, and the entries in the subsequent Register of Intermediate Resumptions and Occurrences, with the omission of any grants of land that may have been resumed and subjected to the payment of revenue during the preceding years, or that may have been transferred to the jurisdiction of another *zillah*, and with the addition of any grants of land that may have been annexed to the *zillah*, or that may have been admitted upon the Register by the Governor-General in Council under section 21, also new grants made by the Governor-General in Council, and lands which any person may be adjudged entitled to hold exempted from the payment of revenue under a *badshahí* grant by a final decree of a Court of Judicature in a suit instituted under this Regulation. The materials for each Periodical Register will thus be ready upon the arrival of the period for preparing it, and the Register will be completed by the mere transcript of them into the book arranged according to the prescribed form.

From what materials the Periodical Register and subsequent registers are to be formed.

XL. If it shall be proved to the satisfaction of the Judge of the *Díwání Adálat* of any *zillah*, that a Native Officer of a Collector or of an Assistant to a Collector shall have received directly or indirectly any sum of money or effects or other property from any person for registering a grant under this Regulation, or on account of any matter relating to the registry thereof, the Court shall adjudge him dismissed from his office and compel him to repay the money proved to have been taken, with a fine of three times the amount to Government

Penalty for native officers receiving money or property on account of the registry of grants.

and costs to the party suing him, and commit him to prison until he shall have discharged the amount of the decree or it shall have been made good by the sale of his property.

Penalty for private servants or dependents of a Collector or of an Assistant to a Collector, convicted of the offence specified in the preceding section.

XLI. If any native servant or dependent of a Collector or of an Assistant to a Collector, not being a public officer, shall be convicted before the Court of *Díwání Adálat* of the offence specified in the preceding section, he shall be compelled to restore the money to the person from whom it may have been taken and to pay a fine of three times the amount to Government with costs to the party suing, and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he makes good the amount or it shall be realized from the sale of his property; and the Collector or Assistant is to discharge such servant, and never to employ him in his public or private capacity.

Regulation not to be considered to extend to grants not *badshahí*.

XLII. No part of this Regulation is to be considered to extend to lands held or stated to be held exempt from the payment of public revenue under grants not being of the description of those termed *badshahí* or royal. The rules applicable to such grants are contained in Regulation XIX, 1793.

REGULATION XXXVIII OF 1793.

A REGULATION *for re-enacting, with modifications, such part of the Rule passed on the 27th June* 1787, *as prohibits Covenanted Civil Servants of the Company employed in the Administration of Justice, or the Collection of the Public Revenue, lending money to Zemindárs, independent Tálukdárs, or other actual Proprietors of land, or dependent Tálukdárs, or Farmers of land holding farms immediately of Government, or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land abovementioned, or their respective Sureties; and for re-enacting with alterations the existing Rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings for carrying on manufactures or other purposes, without the sanction of the Governor-General in Council.*—PASSED *by the Governor-General in Council on the* 1st *May* 1793.

Preamble.

I. At an early period after the establishment of the British Government in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers and others concerned in the collection or payment of

of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise, had they been permitted to engage in such transactions with individuals subject to their official control and authority. This rule was incorporated with the Judicial Regulations passed on the 5th July 1781, and has since continued in force.

Covenanted Servants of the Company employed in the administration of justice, or the collection of the revenue, prohibited lending money to proprietors or farmers of land, dependent *tálukdárs*, under-farmers, or *raiyats*, or their sureties.

II. The Judges and Magistrates of the *Zillah* Courts and their Assistants or other Officers being Covenanted Servants of the Company and the Collectors of the revenue and their Assistants are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent *tálukdár*, or under-farmer or *raiyat*, or their sureties; and all such loans as have been made in opposition to the repeated prohibitions of Government or which may be hereafter made are declared not recoverable in any Court of Judicature.

[This Regulation is in force throughout the territories subject to the Lieutenant-Governor of Bengal and throughout the territories subject to the Lieutenant-Governor of the North-Western Provinces, except the Scheduled Districts, see Schedules IV and V of Act XV of 1874.]

REGULATION XLVIII OF 1793.

A REGULATION *for forming a Quinquennial Register of the landed Estates in Bengal, Bahár and Orissa, subject to the Payment of Revenue to Government, and of the Amount of the fixed annual Revenue payable to Government from each Estate.*—PASSED *by the Governor-General in Council on the 1st May* 1793.

Preamble.

The public revenue assessed upon each estate under the rules for the Decennial Settlement being fixed in perpetuity, and each estate being liable in progress of time to be divided and formed into two or more estates—either in consequence of one or more of the proprietors now possessing, or who may succeed to it, requiring the separate possession of his or their respective share or shares, or from a part of the estate being transferred by gift, sale or other private act of the proprietor or proprietors, or by public sale—and the security of the public revenue depending upon the allotment of it on each portion of every estate so divided being made agreeably to the rules prescribed in Regulation I, 1793; and it being necessary for enabling the officers of Government to apportion the public revenue in conformity to the rules contained in that Regulation, and for affording Government the means of tracing every deviation from those rules that there should be kept a Register of all estates paying revenue to Government, the annual revenue charged upon each of them, and the names of the proprietors, and also of the transfer of estates or portions of estates, and of the allotment of

the public revenue upon such portions, and of the union of estates which may have originally formed parts of the same *zemindárí*, *táluk* or *chaudhrai;* and that every such union, and all such transfers, divisions and allotments of the public revenue that have taken place since the commencement of the Decennial Settlement, or which may hereafter occur, should be traceable with facility and certainty at any future period: and it being also requisite for financial purposes and for the information of the Courts of Judicature from or to whose jurisdiction any districts or lands may be transferred or annexed, that there should be a record of the transfer of all districts or lands from the jurisdiction of one *zillah* to that of another; the following rules have been enacted.

Quinquennial register to be prepared of the estates paying revenue to Government, and of the *jamá* assessed upon each estates.

II. *First.* The Collectors of the land revenue in the several *zillahs* are to prepare a Register of all the estates in their respective *zillahs* of whatever denomination or description, the proprietors of which pay the public *jamá* or revenue assessed upon their estates immediately to Government.

[As to the meaning of the word "estate," see s. 13, Reg. VIII of 1800.

The words "Every five years," with which this clause commenced, have been repealed, the register not having been written anew every five years as was originally intended. From this intention it has been denominated *The Quinquennial Register.* This register falls within the rule of law that, whenever a document is of a public nature and admissible in evidence as such, an *examined copy* is on grounds of public convenience admissible without the productions of the original.—*Udai Maní Dabí and others* v. *Bishonath Dutt and others*, VII W. R. Civ. Rul. 14.]

Names of estates to be arranged in alphabetical order.

III. The names of the estates in each *zillah* are to be arranged in alphabetical order according to the English alphabet.

Estates to retain their present names.

IV. Estates having names are to retain the names by which they are at present distinguished.

Estates the names of which are varied upon a change of the proprietor, to retain their present names.

V. Where it is the practice to vary the appellation of estates upon every change of the proprietors, such estates are henceforth to bear the names by which they are at present distinguished.

Proprietors to name their estates, in the event of their not having been distinguished by any particular name.

VI. Estates that have not been distinguished by any particular appellation are to be named by the proprietor or proprietors and henceforth to retain the name which may be so given to them. If any dispute shall arise between the proprietors of a joint estate regarding the name to be given to the estate, it shall be determined agreeably to the rules prescribed for electing a manager of a joint undivided estate in Regulation VIII, 1793 with this qualification, that where the votes and interest in the estate may be equal, or the proprietors shall neglect

to give a name to the estate upon the requisition of the Collector, he shall name the estate without reference to the Board of Revenue.

VII. *First.* Where estates, in addition to their names, bear the distinguishing appellation of *táluk*, *tappá*, &c. they are to be placed on the Register according to the initial letters of their names, and any such distinguishing appellations are to be inserted immediately after the names as follows:

Distinguishing appellations to be subjoined to the name of the estate.

AKBERPORE (*tappá* or *táluk*), &c.

Second. Where a *zemindárí*, *táluk* or *chaudhrai*, from whatever cause, shall have been or may be divided into a number of shares, each consisting of a specific and ascertained proportion of the original estate, and the sharers shall have the separate possession of their shares, and shall have entered into distinct engagements with Government for the payment of the public revenue assessed upon their respective shares, so as to render each share a distinct estate, the shares are to be placed under the head of the *zemindárí*, *táluk* or *chaudhrai*, of which they originally constituted a part, as follows:

Estates which form specific portions of *zemindáris*, &c. to be stated under the general head of the original estate.

AKBERPORE.
Six annas.
Three annas.
Seven annas.

Third. If any lands, villages or *maháls* in an estate, not forming an ascertained and specific proportion of the whole estate, shall have been or may be transferred either by public sale, or by any private act of the proprietor, and the new proprietor shall have entered into, or may execute separate engagements to Government for the public revenue, the lands so transferred (which agreeably to clause second, section 2, will form a separate estate) are not to be inserted under the head of the *zemindárí*, *táluk* or *chaudhrai*, of which they originally formed a part, as directed with regard to the estates described in the preceding clause, but they are to be considered as original and distinct estates, and to be named under the rules above prescribed for the naming of estates.

Such estates, if not specific proportions, not to be registered under the head of the original estate.

Fourth. If parts of the same estate shall be situated in different *zillahs*, and one engagement only shall have been executed by the proprietor to Government for the whole estate, in such case the portions in each *zillah* are to be registered as *kismats* or parts of the estate, without any specification of the proportion that they may bear to the whole estate, which under such circumstances may not be ascertainable.

Parts of the same estate in different *zillahs* for which one engagement only has been given to be registered as *kismats*.

Fifth. Under the head of each estate is to be specified the names of all the *pargánas* or other local divisions, alphabetically arranged.

Names of the pargánas, &c. in each estate to be specified.

Names of pargánas of certain estates to be specified.

Sixth. Where estates consist of one, two or more villages not comprising a whole *pargána*, the name of the *pargána* in which the estate may be situated shall be specified.

Jamá to be inserted opposite to each estate.

VIII. The annual revenue assessed upon each estate or (where parts of an entire estate may be situated in different *zillahs*) portion of an estate is to be inserted opposite to it in a separate column.

Names of the proprietors of every estate to be inserted opposite to it.

IX. The name or names of the proprietor or proprietors of every estate shall be inserted opposite to the estate, and, if the estate be let in farm, the name of the farmer is to be specified.

Registers in the several *zillahs* when to commence.

X. The Register to be first formed for the *zillahs* in Bengal, Bahár and Orissa shall commence with the Bengal, Fussily and Willaity year 1202, and shall exhibit the estates in the several *zillahs*, and the required particulars respecting them, as they may stand at the commencement of that year of the era current in each province. Upon this Register being completed, a similar register shall be forthwith formed to commence with the year 1197, and show the estates in the several *zillahs* as they stood at the commencement of that year of each era, being the first of the Decennial Settlement. The Register to be formed at the commencement of the year 1207 of the era current in each province, and succeeding years is to exhibit the estates in each *zillah*, as they may stand at that, and each subsequent period.

Registers to be numbered.

XI. The Register to be first formed, and to commence with the Bengal, Fussily and Willaity year 1202 is to be numbered two. The register to be next formed, commencing with the year 1197 of each era, is to be numbered one The Register to be formed at the commencement of the year 1207 of the respective eras is to be numbered three, and every subsequent Register in the order in which it may be formed.

Size of the paper for the Register.

XII. The Register for each *zillah* is to be written on English paper, of the exact size of that on which the form hereafter directed to be prepared by the Board of Revenue may be written, and is to be bound up in one volume, on the back of which there shall be the following inscription:—"Register of Estates paying Revenue to Government in the *zillah* of ————, at the commencement of the year ——— Bengal (Fussily or Willaity) era ——— corresponding with the year of our Lord ———. Number ——."

No Register to be considered as authentic, excepting such as may be

XIII. When the draft of the Register is completed, it is to be transcribed into a book of the prescribed dimensions, each leaf of which shall be previously paged and be signed by the Judge of the *Díwání Adálat* of the *zillah*, and on

the last leaf of the book the Judge is to specify in his own handwriting the number of pages contained in it, and no Register shall be considered as authentic, but such as may be entered in a book so paged and attested.

paged and signed. Leaves of the Register to be paged, and to be signed by the Judge of the *zillah*.

XVI. For the purpose of recording the divisions of estates, or the transfers of estates or portions of estates, or the union of estates that originally formed a part of the same *zemindárí, táluk* or *chaudhrai*, which may take place during the years subsequent to the forming of each Register, the Collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated the "Register of Intermediate Mutations in landed property," and have the following inscription on the back :—"Register of Intermediate Mutations in landed property, between the commencement of the year ———, and the expiration of the year ——— Bengal (Fussily or Willaity) era." Previous to any entries being made in this Register it is to be paged and the Judge of the *Díwání Adálat* of the *zillah* is to sign each leaf of it, and on the last leaf specify in his own handwriting the number of pages contained in the book. The Collector shall cause to be entered in this Register all divisions of estates, or transfers of estates or portions of estates, and every union of estates which originally constituted a part of the same *zemindárí, táluk* or *chaudhrai*, that may take place during the years subsequent to the formation of each Register, with the authority by which the same may have been made, and all the particulars necessary for making the required entries in the next Register, and shall attest the entry with his signature.

Manner in which the mutations in property in the intervals between the forming of each Register are to be recorded.

[See s. 16, Reg. XXXVII of 1793, and s. 14, Reg. VIII of 1800]

XVII. Whenever any estates or portion of estates shall be directed to be separated from one *zillah* and annexed to another, the Collector of the *zillah* from which the separation may be ordered to take place is to transmit to the Collector of the *zillah* to which the annexation is to be made a copy of the entries in the last Register formed prior to the separation, which may relate to the several estates or portions of estates to be separated, and of any entries respecting them in the Register of Intermediate Mutations which may have taken replace subsequent to the forming of the last Register. These documents are to be entered by the Collector of the *zillah* to which the annexations may be directed to be made, in the Register of Intermediate Mutations in his *zillah*, as materials for forming the next Register.

Documents to be furnished by Collectors of *zillahs* from which separations may be made.

XVIII. The Governor-General in Council will direct the order for the separations and annexations specified in the preceding article, to be notified to the Courts of Judicature from the jurisdiction of which the separation is to take

How separations and annexations altering the jurisdictions of

the Courts are to be made known to them.

place and also to the Courts to the jurisdiction of which the annexation is to be made. Upon the arrival of the period when the separation and annexation is to be carried into effect, the Collector of the *zillah* from which the separation may be made is to transmit to the Judge of the *Díwaní Adálat* of his *zillah* copies of the entries in the last Register and Register of Intermediate Mutations, which may relate to the estates or portions of estates to be separated from his *zillah;* and the Collector to whose *zillah* the annexation may be made is to transmit copies of the abovementioned entries (with which he is directed to be furnished by section 17), to the Judge of his *zillah.* Immediately upon the receipt of these papers, the Courts from the jurisdiction of which the separations may be made are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other *Zillah* Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

Further rules to be observed in keeping the Register of Intermediate Mutations in property.

XIX. To facilitate reference as well as the preparing of the new Register, the Collector is to insert in the preceding Register in red ink, opposite to the name of the estate in the property in which any alteration may have taken place, the number of the page in the Register of Intermediate Mutations in which the alteration may be noted, and at the end of the note of the alteration in the last mentioned Register he is to insert in red ink the number of the page in which the estate may be registered in the Register; and every such entry shall be signed by the Collector, who shall be responsible for the entry being truly and accurately made. The note of the alteration to be entered in the Register of Intermediate Mutations is to specify the requisite particulars for completing the entries in the next Register, or refer to them, if they be contained in the preceding Register. The Collectors are strictly enjoined never to allow the Register of Intermediate Mutations to fall in arrear, but to make the necessary entries immediately upon any mutation in property, or any separation or annexation of lands from or to their respective *zillahs* being notified to them through any of the channels specified in section 24.

How errors in the fair copy of the Register, and in the Register of Intermediate Mutations, are to be noted.

XXI. When a Register shall have been transcribed fair into the book attested by the Judge of the *zillah,* as directed in section 13, if it shall be discovered that the entries respecting any estate are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased but are to stand, and the Collector is to cause the errors or omissions to be noted in the Register of Intermediate Mutations, and attest the entry with his signature and insert in red ink opposite to the erroneous or incomplete entry in the Register the number of the page in the Register of Intermediate Mutations

in which the errors or omissions are noted, and at the end of the note specify the number of the page of the Register in which the property may be registered. Errors or omissions in the Register of Intermediate Mutations are to be noted in a similar manner.

XXIII. If the proprietary right in an estate or the part of an estate shall be under litigation in a Court of Justice at the time of forming the first or any subsequent Register, the party in possession is to be registered as the proprietor.

Where the titles to estates are disputed, the party in possession to be registered as the proprietor.

XXIV. *First.* The Collectors will be furnished through the following channels with the necessary information regarding the mutations in landed property and the annexations to, or separations from, their respective *zillahs*, for making the requisite entries in the Register of Intermediate Mutations.

Collector from whence to be furnished with the necessary information for making the entries in the Register of Mutations in property.

Third. The Board of Revenue are to furnish them with the necessary particulars regarding all such lands as may be disposed of by them at public sale at Calcutta.

Fourth. In cases in which lands may be ordered to be sold at their *kachahris*, they will have in their own possession the authority for the sale and all the necessary information regarding the property transferred.

Fifth. They will likewise have in their possession the requisite information respecting the division or the union of estates which may take place under their superintendence.

Sixth. By section 10, Regulation I, 1793 transfers of estates or portions of estates must be notified to them before the name of the new proprietor can be inserted in the Register directed to be kept by Regulation XLVIII, 1793.

[See s. 21, Reg. VIII of 1800.]

XXV. If a Collector shall have occasion to require from the proprietor or the farmer of an estate, or from a dependent *tálukdár* or under-farmer, any information that may be necessary to enable him to form a Register, or to make the requisite entries in the Register of Intermediate Mutations, and such person shall omit to furnish it by the time required, after having been served by the Collector with a written requisition for that purpose under his official seal and signature, the Collector is to report the circumstances to the Board of Revenue for the information of the Governor-General in Council, who reserves to himself the power of imposing on such person whatever fine may appear proper, upon a consideration of the case and his situation and circumstances in life. Upon receiving notice through the Board of Revenue of any such fines that may be imposed by the Governor-General in Council, the Collector is to levy the amount

Proprietors, &c. liable to be fined for omitting to furnish any information that may be required by the Collectors for preparing the Registers.

by the same process, as he is authorized to have recourse to for the recovery of arrears of revenue.

Collector to send duplicates of each Register to the Board of Revenue.

XXVI. The Collectors of the several *zillahs* are to transmit as early as may be practicable to the Board of Revenue an attested copy of the Registers both in the English and the native languages, each in a book of the prescribed size, paged and attested by the Judge of the *Díwání Adálat* of the *zillah* in the same manner as the original Register, as directed in section 13; and within one month after the expiration of the third, sixth, ninth and twelfth months of the Bengal, Fussily or Willaity year (according to the era current in their respective districts), an attested copy of the entries in the Register of Intermediate Mutations that may have taken place during the three preceding months.

Board of Revenue to prepare a form for the Register, and for the Register of Intermediate Mutations in property.

XXVIII. Upon the receipt of this Regulation, the Board of Revenue are to prepare forms for the Register, and the Register of Intermediate Mutations, so that the first mentioned Register may exhibit the required particulars respecting each estate, and, as far as may be practicable, the *sarkars*, *pargánas* or other established divisions of the country, in which the estates in the several *zillahs* may be situated, and after submitting the forms for the approbation of the Governor-General in Council they are to circulate copies to the Collectors. The approved forms are not to be altered without the sanction of the Governor-General in Council; but the Board of Revenue are to suggest any improvements in the forms that may occasionally occur to them, and in the event of their being adopted they shall take place from the period fixed for forming the next Register, or at such other period as may be deemed advisable. Upon the receipt of this Regulation, the Collectors are to proceed to collect the necessary papers and information for forming the Register which is to commence with the year 1202 of the era current in each province, and to register all mutations in property in their respective *zillahs* that may take place subsequent to the receipt of the Regulation. When the Register for the abovementioned year is completed, or earlier if practicable, the Collectors are to proceed to prepare the Register which is to commence with the year 1197, the first of the Decennial Settlement, and to complete the Register of Intermediate Mutations to the expiration of the year 1201.

[See s. 17, Reg. VIII of 1800.]

From what materials the Register to commence with the year 1207, and every subsequent Register are to be formed.

XXIX. The Register to be formed in each of the *zillahs* in Bengal, Bahár and Orissa is to be prepared from the preceding Register, and the entries of subsequent mutations in property in the Register of Intermediate Mutations, with the omission or addition of any estates or portions of estates, that may have been separated from the *zillah*, or annexed to it, subsequent to the forming of

the last Register. The materials for each Register will thus be ready upon the arrival of the period for preparing it, and the Register will be completed by the mere transcript of them into the book arranged according to the prescribed form.

All persons at liberty to sue for any landed property registered in the name of another.

XXX. No part of this Regulation is to be considered to preclude any person who may deem himself entitled to any estate, or portion of an estate, paying revenue to Government, which may be entered in the Register or the Register of Intermediate Mutations as the property of any other person or persons, from suing for the same in the Court of *Díwání Adálat* in which the claim may be cognizable.

REGULATION III OF 1794.

A REGULATION *for exempting Proprietors of Land (with certain exceptions) from being confined for Arrears of Revenue; and for prescribing the Process by which Tehsildárs are to demand Payment of Arrears; and for enabling the Collectors to recover from Native Officers, employed under them, Public Money or Papers which they may embezzle or retain; and for expediting the Trial of Causes relating to the public Revenue or the Rents of individuals.*—PASSED *by the Governor-General in Council on the* 14*th March* 1794.

Proprietors and farmers of land how to recover sums exacted from them beyond their engagements.

XII. That proprietors and farmers of land may be enabled to recover sums that may be exacted from them by the Collector on the part of Government above what they may be bound to pay by their engagements, and that they may be indemnified from all loss they may sustain by such exactions, it is declared that if a Collector shall demand a sum of money from a proprietor or farmer of land on account of arrears in the manner prescribed in Section 3, Regulation XIV, 1793, and the proprietor or farmer shall deny, by a writing to that effect addressed to the Collector, the justness of the whole or a part of the demand, but to prevent any further process being issued against him shall discharge the whole of the demand, the proprietor or farmer shall be at liberty to sue the Collector in the *Díwání Adálat* of the *zillah* for the recovery of the sum which he may consider to have been unjustly taken from him, and the Court shall give judgment in favour of the complainant for all such sums as may be proved to have been unduly exacted from him, and the amount of such judgment shall be refunded to him from the public treasury of the *zillah* with interest at the rate of twelve per cent. per annum, from the date of the exaction to the date of the decree. All the rules in Regulation XIV, 1793 respecting suits instituted against a Collector for sums actually received by him on the part of Government from any

What rules in Regulation XIV, 1793, are

to be considered applicable to suits instituted against the Collector under this section.

proprietor or farmer of land, or from the surety of any farmer, are to be considered applicable to suits that may be instituted against a Collector under this section.

How *tehsildárs* or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

XIII. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a *tehsildár* or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as Collectors are required to observe in requiring the discharge of arrears. If the defaulter shall not liquidate the arrears by the prescribed period, the *tehsildár* or other officer is to report the amount of the arrear to the Collector who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the *zillah*.

Collectors how to proceed to recover public money or accounts in the possession of Native Officers.

XVI. If a Collector shall have a claim on the part of the Government on any of the Native Officers described in the preceding section for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money, or the delivery of the papers, by a writing under his official seal and signature and the signature of his *Díwán* or other head native officer of his *Daftar* for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers. If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him and convey him to the jail of the *Díwání Adálat* of the *zillah*, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers. The Collector is authorized likewise to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him. If his property shall be in another *zillah*, he is to apply to the Collector of that *zillah*, who shall cause it to be attached. If the property shall be within the cities of Patna, Dacca or Múrshedabád, the Collector is to apply to the Judge of the *zillah*, through the *vakíl* of Government, to make application to the Judge of such city to attach and deliver it into the charge of the nearest Collector. The Board of Revenue are empowered to order the property to be sold under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue. In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs by a regular suit in the Court to which they may be amenable for any claims which Government may have upon the deceased. The suit is to be carried on by the *vakíl* of Government and at the public

expense, and the rules in Regulation XIV, 1793 regarding suits so carried on by the Collectors are to be held applicable to it.

[The Native Officers described in the preceding Section are Tehsildárs, Sazáwals, Amins, Serrishtidars, Múnshis, Mohurrirs and all Native Officers entrusted with the receipt or payment of public money, or the charge of public accounts. See Act XII of 1850 and *ante*, p. 97.]

Collectors how to proceed, where officers abscond or are not forthcoming.

XVII. If any such Native Officer who may have retained public money or papers in his possession shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the *zillah;* or, if he shall have taken refuge in any other *zillah,* or in either of the cities of Patna, Dacca or Múrshedabád, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the *zillah,* to request the Judge within whose jurisdiction the officer may be or reside to cause him to be apprehended. The Judge to whom the application may be made is to convey the Officer in safe custody to the jail of the *zillah* from which he may have absconded.

Collector how to proceed, in case of the officer absconding without having adjusted his accounts or omitting or refusing to attend for that purpose.

XVIII. If a Collector shall have occasion to require any such Officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by a writing to that effect under the official seal and signature of the Collector to be fixed up in his *kachahrí* and at the place in the *zillah* at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such Officer, and proceed against the surety upon his engagement for the balance or papers in the same manner as if the accounts had been adjusted and the list of the papers prepared in the presence of the Officer; or he may cause the Officer to be apprehended by his own authority under section 16, if he be within the limits of the *zillah,* or, if he shall have taken up his abode in any other *zillah* or in either of the cities of Patna, Dacca or Múrshedabád, by application to the Judge in the manner directed in section 17. If it should afterwards appear upon enquiry before the Court, that no part or a portion only of the sum demanded was due from him, or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him and all costs that may be incurred in the suit or enquiry shall be paid by the Officer.

Officers or sureties confined for a demand of money, to be released in the

XIX. If any such Officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or, supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the

case herein specified.

whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety and proceed to the trial of the suit; and, if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded and the property restored to the owner.

Native Officers or their sureties at liberty to sue the Collector whilst in confinement.

XX. If any such native officer or his surety shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section 19, he shall nevertheless be at liberty whilst in confinement to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

REGULATION I OF 1795.

A REGULATION *for fixing in perpetuity the Revenue assessed on the Lands in the Province of Benares; for the more general Restoration of the ancient Zemindárs; and for extending to the Province of Benares the Rules prescribed in Regulation XLI,* 1793.—PASSED *by the Governor-General in Council on the* 27*th March* 1795.

Preamble.

The Governor-General in Council having determined, with the concurrence of the Rájá of Benares, to introduce into that province, as far as local circumstances will admit, the same system of interior administration as has been established in the Provinces of Bengal, Bahár and Orissa, and, the limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the Preamble to Regulation II, 1793, the following rules have been enacted:

The origin and progress of the assessment of the land revenue in the Province of Benares.

II. On the expiration of the year 1195 Fussily, the Governor-General in Council instructed the Resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The Resident accordingly completed the settlement by granting leases for the term of one year to certain *Amils*, and for five years to others, by which they bound themselves to pay a specific *jamá* or assessment. But the Governor-General in Council being desirous of extending to the Province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the Decennial Settlement directed to be formed in the Provinces of Bengal, Bahár and Orissa, those princi-

ples were accordingly introduced in the districts of which the *Amils* in the preceding year had obtained leases for five years, by their consenting to the Resident's issuing *pattas* or leases under their and his joint seals and signatures for the remaining four years of the term of their own engagements to all the *tálukdárs* and to the village *zemindárs* and farmers, by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the *Amils* and accounted for by them to Government; and in the districts, the leases of which had been granted for one year only and had consequently expired, by the issuing of *pattas* to the *tálukdárs* and the village *zemindárs* and farmers under the signature of the Resident and the Rájá, fixing the revenue to be in like manner paid by them through the *Amils* for the term of ten years. The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four, and ten years, made to the Governor-General in Council by the Resident on the 26th of April, the 30th of November, and the 26th of December 1789, and the 25th November 1790, and in the papers and accounts therein referred to; and, on a consideration of them, the Governor-General in Council on the 11th February 1791 approved of the said Quartennial and Decennial Settlements with the *tálukdárs*, village *zemindárs* and farmers, and ordered "that the four years' *pattas* be confirmed for the ensuing six, so as to reduce the whole to a ten years settlement, and that assurances be given to the *patta*-holders, that, as long as they continue to pay their revenue stipulated in the last year of the increase as specified in their several *pattas*, they shall not be liable to any further demand during their lives." This order has been repeatedly notified to the parties whom it concerned, who, with the exception of the *patta*-holders in a few *pargánas* and of certain individual *zemindárs* and farmers in others, have by the performance of the conditions required of them become entitled to hold their lands at a fixed assessment during their lives as specified in the said order. The Governor-General in Council has now further resolved, that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial *pattas*, the conditions of which have been performed, whether held by *zemindárs* or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the Regulations to succeed to such *pattas*, shall not be liable to any additional payment beyond the highest annual *jamá* specified in such *pattas*. That this resolution may be rendered more immediately and generally known, the Resident is to notify it to the parties interested by a Proclamation to the following effect.

Revenue assessed on the lands included in *pattas*, and the conditions of which have been performed, fixed in perpetuity.

III. *First.* "On the 11th February 1791 the Governor-General in Council signified his approbation and confirmation of the Quartennial and Decennial Settle-

Proclamation.

ments formed in the Fussily year 1197 (1789—90) throughout the four Sarkárs comprised in the province of Benares, and directed in respect to the *pattas* for four years, that the amount of the *jamá* payable thereby in the fourth year should be continued for the next six years, so as to place the quartennial *pattas* on the same footing as the *pattas* granted for ten years. The Governor-General in Council now declares that the *jamá* payable according to the quartennial and decennial *pattas* shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual *jamá* payable according to the said *pattas* shall ever be required of those *pattadars* or holders of *pattas*, who have hitherto paid up their revenue and observed all the other conditions specified in their *pattas*, nor of those who may hereafter become entitled to hold or succeed to such *pattas*, so long as they shall continue to discharge the amount and to perform the conditions therein stipulated.

Revenue assessed on the lands agreeably to the *pattas* granted under the rules for the Quartennial and Decennial Settlements, declared fixed in perpetuity.

Second. The above declarations are made with the following reservations.

Reservations under which the above declarations are made.

Third. The holders of the *pattas* are to be considered as bound to conform to all Regulations regarding them, the preservation of the rights of the *pattídárs* or sharers in estates, the *raiyats*, or the administration of justice, which have been or may be passed by the Governor-General in Council, and printed and published in the manner prescribed in Regulation XLI, 1793.

Rule regarding the succession to *zemindáris*.

Fourth. The succession to *zemindáris* is to take place according to the established laws, rules and customs of the country, as provided for in the Regulations passed or which may be enacted for the Province of Benares, and printed and published in the manner prescribed in Regulation XLI, 1793.

Cases in which a *zemindár* dispossessed before the 1st July 1775 shall be restored to his estate on the avoidance of the *patta* which may have been granted for it to a farmer. Conditions under which such restoration is to take place.

Fifth. In the event of the death of a farmer holding a *patta* for lands the *zemindár* of which was dispossessed previous to the 1st July 1775, the date of the cession of the Province of Benares to the Company, or of the *patta* of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Rájá of Benares, that such *zemindár* or his heir or heirs shall be restored to the estate, provided he or they shall agree to pay the fixed *jamá* assessed on the lands, agreeably to such *patta*, and to conform to all Regulations for the collection of the revenue, the administration of justice or other matters which may be printed and published in the manner prescribed in Regulation XLI of 1793. In such case the estate shall be made over to him or them, in preference to its being leased to a new farmer or to the heir of the last *patta*-holder.

Cases in which *zemindárs*, who have had possession of their estates since the 1st July 1775, but

Sixth. According to the well known rule prevailing in the province, those *zemindárs* who have had possession of their estates since the 1st of July 1775, but who were nevertheless excluded at the forming of the Permanent Settlement, may recover possession of their estates from the farmers who may hold *pattas*

for, and be in the actual management of them, by proving their intermediate possession in the Court of *Díwání Adálat*. The Courts of *Díwání Adálat* are accordingly to decree the restoration of any such *zemindár* so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such *zemindár's* previously indemnifying the farmer for the loss which he may prove to the satisfaction of the Court to have sustained in consequence of his having held the lands under the *patta* of Government, and the Court is accordingly to enquire into and decide upon such loss, and to cause the amount to be made good to the farmer before the *zemindár* is reinstated."

which may have been leased to farmers, may recover possession from such farmers.

IV. The rules contained in Regulation XLI, 1793, entitled, "A Regulation for forming into a regular code, all Regulations that may be enacted for the internal government of the British territories in Bengal," are hereby declared to extend to the Province of Benares; and, that no doubt may be entertained what Regulations so enacted may be meant to extend to that province, or otherwise, it is hereby declared, that no such Regulation that has been or may be passed previous to, on, or after this date, shall be considered to extend, either wholly or in part, to the the Province of Benares, unless the title to the Regulation, or the Regulation itself, or some other Regulation shall declare the whole or a part of it to extend to that province.

Regulation XLI, 1793, extended to Benares.

[Reg. XLI of 1793 was repealed by Act VIII of 1868, save as provided in s. 1, *idem*, q. v.]

REGULATION XV OF 1795.

A REGULATION *for extending to the Province of Benares Regulation XVI,* 1793, *entitled, "A Regulation for referring Suits to Arbitration, and submitting certain cases to the Decision of the Nazim," with the exception of Section* 10; *and for referring certain cases to the Decision of the Rájá of Benares.*—PASSED *by the Governor-General in Council on the* 27*th March* 1795.

Previous to the establishment of Courts of Justice in the Province of Benares, individuals in general were under the necessity of having recourse to arbitration for the adjustment of the differences occasionally arising between them in respect to matters of property; and the same mode of adjustment has since been prevalent in the province, the parties in suits before the Courts often agreeing to submit to the award of a certain number of their neighbours or other persons, and the award when confirmed by the Court becoming a decree of the Court. The Governor-General in Council being desirous to promote the reference of disputes of certain descriptions to arbitration and having deemed it proper to

Preamble.

submit certain cases to the decision of the Rájá, the following rules have been enacted.

Cases to be referred to the Rájá.

III. *First.* In the event of any complaints being preferred to the City Court or to any *Zillah* Court relative to undue exactions of revenue, or any breach of agreement in respect to *pattas*, or the resumption of *kishnarpan* or other description of lands exempted from the payment of revenue, in the *jagír mahals* of Badhúí or of Kera Mangrore, or in the Rájá's hereditary *zemindárí* of Gangapore, the complaints are not to be taken cognizance of in the Courts of Justice, but the parties are to be desired to make application to the Rájá or to his *Díwán;* and, in case of their not obtaining justice, they are to have recourse to the Collector who will proceed to bring such causes to a just and equitable termination in the manner stated in the under-specified article of an agreement concluded by the Resident with Rájá Mahipnarain, under date the 27th of October 1794. An option, however, is reserved to the persons deeming themselves injured to prefer their applications for redress in the first instance to the Collector who in all cases by reference to and communication with the Rájá and his officers is to cause substantial justice to be rendered to the parties.

Article of agreement.

Second. "Article Third of an agreement concluded by the Resident at Benares with Rájá Mahipnarain, under date the 27th October 1794. 'In case of complaints relative to revenue causes or charity ground, &c. being preferred to the *Huzúr* (*i. e.* the English Government,) by any parties residing within the *jagír* and *altamgha*, &c. the personal or private lands of Rájá Mahipnarain Sing, the enquiry thereinto shall be made in like manner as such cases were amicably conducted between Mr. Duncan and the Rájá; that is, that since the gentleman holding the station of Collector will have more concern and connection with such matters than the other gentlemen, the rule shall be that with the privity and ascertainment of the said Collector (who is to have regard to the honour and dignity of the said Rájá) such causes are to be settled through the channel of the said Rájá, or of the officers of the said Rájá's *kachahrí*, it being at the same time understood and provided, that, as it is a duty incumbent on the Honourable Company's Government to distribute and ensure the attainment of justice to all the inhabitants of Benares, should it so happen that, after referring such complaints to the Rájá or to his officers in the *kachahrí*, the contentment of the parties complaining and aggrieved shall not be obtained, the Rájá shall, relative to the adjustment of such causes, listen to and approve of the suggestions and advice of the Collector in like manner as hath been practised in the time of Mr. Duncan; and it is also incumbent on the said Collector in all proper and just cases to show the utmost attention possible to the Rájá's accommodation and to hold in view the maintenance of his honour and dignity, such being entirely

consistent with the wishes of Government; and if (which God forbid,) any such subject should arise, as cannot be settled between the said Collector and the Rájá aforesaid, the decision in such case shall depend on the Governor-General in Council."

[See Reg. VII of 1828.]

REGULATION XXVII OF 1795.

A REGULATION *declaratory of certain Reservations made by Government and of Rights preserved to the Proprietors of Landed Estates under the Permanent Settlement of the Land Revenue made in the Province of Benares; for allowing of the Transfer or Division of entire Estates or portions of Estates, and prescribing Rules for apportioning the fixed Jamá on the several Shares of Estates which may be divided, or portions of Estates which may be transferred; and for continuing the Patwáris in the discharge of their ancient functions.*—PASSED *by the Governor-General in Council on the 27th March* 1795.

Regulations I and II, 1795 contain the rules according to which the settlement of the land revenue in the Province of Benares made for one year and the Quartennial and Decennial Settlements were concluded. By the first mentioned Regulation the Decennial Settlement has been declared permanent, and for the information and guidance of the *tálukdárs, zemindárs* and other actual proprietors of land, and all persons whomsoever, the following further Rules respecting the Permanent Settlement are enacted. Preamble.

II. As the lands of some few *zemindárs* and other actual proprietors of land may have been continued *amání*, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations for the Quartennial and Decennial Settlements, the Governor-General in Council notifies to the *tálukdárs, zemindárs* and other actual proprietors of land, whose lands are held *amání*, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment, which has been or may be required of them in conformity to the Regulations abovementioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever; and he declares to the *tálukdárs, zemindárs* and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases and the Governor-General in Council

Jamá which may be hereafter agreed to by proprietors whose lands are held *amání*, or let in farm, declared fixed for ever.

shall approve of the transfer), but that at the expiration of that period, or in the event of any such farmer or farmers forfeiting his or their leases by falling in arrear or otherwise, such proprietors of land shall be reinstated on their agreeing to the payment of the assessment which may be required of them, or (according to the nature of the case) to the conditions with respect to the arrear that may be due, as specified in clause first, section 18, Regulation VI, 1795, and no alteration shall afterwards be made in the said fixed annual assessment, but such proprietors of land and their heirs and lawful successors shall be allowed to hold their respective estates at such assessment, for ever.

Jamá at which lands belonging to Government may be transferred to individuals, declared fixed for ever.

III. In the event of the proprietary right in lands that are or may become the property of Government being transferred to individuals, such individuals and their heirs and lawful successors shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Proprietors expected to improve their estates, in consequence of the profits being secured to them.

IV. *First.* The Governor-General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty, that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Conduct to be observed by the proprietors of land towards their *pattidárs*, under-renters and *raiyats*.

Second. To discharge the revenue at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their *pattidárs*, under-renters and *raiyats*, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable; and a strict observance of those duties is now more than ever incumbent upon them in return for the benefits which they will themselves derive from the orders now issued. The Governor-General in Council therefore expects that the aforesaid proprietors of land will not only act in this manner themselves towards their *pattidárs*, under-renters and *raiyats*, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust.

Government to enact such Regulations as they may think necessary for the welfare of the *pattidárs*,

V. *First.* It being the duty of the ruling power to protect all classes of people and more particularly those who from situation are most helpless—the Governor-General in Council, whenever he may deem it proper, will enact such Regulations as he may think necessary for the protection and welfare of the

pattidárs, under-renters, *raiyats* and other cultivators of the soil; and no *táluk-dár*, *zemindár* or other proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they may have respectively agreed to pay.

under-renters, *raiyats* and cultivators; and proprietors not to withhold the revenue on that account.

Second. The Governor-General in Council having, on the 26th December 1787, directed the *sayar* collections to be abolished, and a subsequent settlement having been made with the proprietors of land exclusive of the articles of collection given up by that abolition—he now declares, that, if he shall hereafter think it proper to re-establish the *sayar* collections or any other internal duties and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

All internal duties that may be hereafter established, to belong exclusively to Government.

Third. The Governor-General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Jamá that may be assessed on alienated lands held under invalid titles, to belong exclusively to Government.

Fourth. The *jamá* of those *zemindárs*, *tálukdárs* and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of *pherís*, *pasís*, *ghorites*, or other description of watchmen employed in services of Police; and the Governor-General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government to perform the duties relating to the Police now required from them. The Governor-General in Council however declares, that the produce of lands which may in that case be resumed will be appropriated to no other purpose but that of defraying the expense of the Police, or providing a maintenance for the *pherís*, *pasís*, *ghorites*, or other description of watchmen employed therein.

Police lands eventually resumable by Government.

Allowances that may be so resumed, not to be added to the *jamá*, but to be collected separately, and applied solely to the Police.

Fifth. Nothing in this or any other Regulation shall be construed to render the lands, of which there are dispossessed proprietors, liable to sale for any arrears which have accrued or may accrue on the *jamá* that has been or may be assessed upon their lands under the Regulations for the Quartennial and Decennial Settlements, provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands. It is to be understood, however, that whenever all or any of the

Estates of dispossessed proprietors, not liable to sale for arrears of assessment accruing whilst they are deprived of the management of them.

descriptions of dispossessed landholders shall be permitted to assume or retain the management of their lands in consequence of the ground of their dispossession no longer existing, or of the Governor-General in Council dispensing with, altering, or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the *jamá* that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them.

Proprietors declared privileged to transfer their lands without the sanction of Government.

VI. That no doubt may be entertained whether proprietors of land are entitled under the existing Regulations to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the *tálukdárs, zemindárs* and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary right in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomadan or Hindú laws, (according as the religious persuasions of the party or parties making such transfer may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British Administrations or to any Regulations that they may hereafter enact.

Provided the transfer be conformable to law, and not contrary to any existing Regulation.

Rules for apportioning the fixed *jamá* on portions of estates, in the event of their being disposed of at public sale, or transferred by the proprietors, and on shares of estates divided amongst the joint proprietors, upon the transfer or division being notified to the Collector or other prescribed officer; and the *jamá* so adjusted, declared fixed for ever.

VII. From the limitation of the public demand upon the lands, the neat income and consequently the value (independent of increase of rent obtainable by improvements,) of any landed property, for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed *jamá* assessed upon it (which agreeably to the foregoing declarations is to remain unalterable for ever, to whomsoever the property may be transferred) with the whole of its produce, allowing for the charges of management. But it is also essential, that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it in the event of the whole of it being transferred by public or private sale or otherwise in two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint property and a division of it being made among the proprietors—otherwise, from the want of a declared rule for estimating the proportion of the fixed *jamá* with which the several shares would be chargeable in such cases

the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained. The Governor-General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases abovementioned; but, as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue or such other officer as Government may in future prescribe, in order that the fixed *jamá* assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the *jamá* charged thereon may be entered upon the public Registers, and that separate engagements for the payment of the *jamá* assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor-General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the province or such other officers as may be hereafter prescribed for the purposes beforementioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jamá* assessed upon it in the same manner as if no such transfer or division had ever taken place.

First. In the event of the whole of the lands of a *zemindár*, *tálukdár* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations abovementioned, being exposed to public sale by order of the Governor-General in Council for the discharge of arrears of assessment, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the purchaser or purchasers of such lands and his or her or their heirs and lawful successors shall hold them at the *jamá* at which they may be so purchased for ever.

Second. When a portion of the lands of a *tálukdár*, *zeimindár* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before mentioned, shall be exposed to public sale by order of the Governor-General in Council for the liquidation of arrears of assessment, the assessment upon such lands, if disposed of in one lot,

shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor-General in Council may hereafter enact, and the purchaser or purchasers of such lands and his or her or their heirs or sucessors will be allowed to hold them at the *jamá* at which they may be so purchased for ever; and the remainder of the public *jamá*, which will consequently be payable by the former proprietor of the whole estate on account of the portion of it that may be left in his or her or their possession, will continue unalterable for ever.

Third. When a *tálukdár, zemindár* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate in two or more distinct portions to two or more persons, or a portion thereof to one person or to two or more persons in joint property, by private sale, gift or otherwise; the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors shall hold them at the *jamá* at which they may be transferred for ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public *jamá*, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth. Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount, which

shall bear the same proportion to its actual produce, as the fixed *jamá* assessed upon the whole of the estate divided may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor-General in Council may hereafter adopt, and the sharers and their heirs and lawful successors shall hold their respective shares at the *jamá* which may be so assessed upon them for ever.

[See cl. 2, s. 3, Reg. XVIII of 1812.]

Lands of ancient proprietors standing dispossessed under sec. 12, Regulation II, 1795, not to be liable to be disposed of at public sale.

VIII. Nothing in this or any other Regulation passed previous to, or on, this date, shall be construed to authorize the public sale of the lands in any *talukdárí* or *zemindárí*, whilst the party or parties claiming the same as the ancient proprietors continue to stand excluded under the limitation specified in section 12, Regulation II, 1795; or until, by the operation of the repeal of that limitation under section 3, Regulation I, 1795, or in pursuance of the consequent provision in section 18, Regulation VI, 1795 or some other consonant rule, made or that shall hereafter be made in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective *tálukdáris* or *zemindáris*.

Definition of the term proprietor or actual proprietor of land.

X. For the sake of precision it is hereby declared, that wherever the term proprietor, or actual proprietor of any *táluk, zemindárí*, village or other land paying revenue to Government, is or may be used in this or any other Regulation extending to the Province of Benares, such term is to be considered as applying to the person or persons holding under each separate lease or *patta* from Government (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other *pattidárs*, distinct or common), whose name or names standing inserted in such *pattas*, and who having executed the counterpart *kabúliyats* has or have thereby become immediately responsible to Government as well for the payment of the revenue as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement, without however affecting or prejudicing the rights, distinct or common, of any *pattidárs* or sharers, where any such shall exist, and which, in case of dispute with the *pattadárs* or holders of the *pattas*, are to be determined by the Courts of *Adálat*, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice and the laws, customs and usages of the district, as far as regards the parties in question.

REGULATION XLIV OF 1795.

A REGULATION *for removing certain restrictions to the operation of the Hindú and Mahomadan Laws with regard to the Inheritance of Landed Property subject to the Payment of Revenue to Government in the Province of Benares.*—PASSED *by the Governor-General in Council on the 28th August* 1795.

Preamble.

ON grounds similar to those stated in the Preamble to Regulation XI, 1793, for removing certain restrictions to the operation of the Hindú and Mahomadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the provinces of Bengal, Bahár and Orissa, the following rules have been enacted for the Province of Benares.

After the beginning of the Fussily year 104, landed property to descend according to the Mahomadan or Hindu law, unless the last proprietor shall have otherwise disposed of it in a manner sanctioned by those laws.

II. After the first day of the Fussily year 1204, if any *tálukdár, zemindár* or other actual proprietor of land shall die without a will, or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Mahomadan or Hindu law (according as the parties may be of the former or latter presuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Two or more persons succeeding to an estate to be at liberty to hold it as a joint undivided estate;

or one, or more, or all of the sharers allowed to have separate possession of their shares;

or two or more of the sharers permitted to hold their shares as a joint undivided estate.

III. If any *tálukdár, zemindár* or other actual proprietor of land shall die subsequent to the period specified in section 2 without a will or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Mahomadan or Hindu law (according as the parties may be of the former or the latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one, or more, or all of the sharers shall be desirous of having separate possession of their respective shares a division of the estate shall be made in the manner directed in Regulations XXV, 1793, and XXVI, 1795, and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

IV. It is to be understood that, if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jamá* charged upon the whole estate, which is to be assessed upon such share or shares, is to be adjusted according to the rules prescribed in section 7, Regulation XXVII, 1795.

Shares held separate, how to be assessed.

V. Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve entire to any individual prior to the beginning of the Fussily year 1204 in exclusion of the other heirs of the last proprietor under the custom in virtue of which such individual may so hold or succeed to the whole of such estate, and for the future abolition of which this Regulation is enacted; but such person or persons are to be considered bound in the cases specified in clause tenth, section 35, Regulation XXII, 1795 by what they had acquiesced in.

This Regulation not to be in force until the beginning of the Fussily year 1204, and then not to operate retrospectively.

VI. Nor to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the Fussily year, 1204, his or her landed estate entire, to his or her eldest son or next heir or other son or heir in exclusion of all other sons or heirs, or to any person or persons or to two or more of his or her heirs in exclusion of all other persons or heirs in the proportions and to be held in the manner which such proprietor may think proper, provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor-General in Council, nor contrary to the Hindú or Mahomadan law, and that the bequest or transfer whether made by a will or other writing or verbally be authenticated by, or made before such witnesses and in such manner, as those laws and Regulations respectively do or may require.

Nor to prevent persons transferring their property in the manner and to whom they may think proper, provided the transfer be not repugnant to the Hindu or Mahomadan law, or the Regulations of the Governor-General in Council.

REGULATION LVIII OF 1795.

A REGULATION *for granting to the Collectors a Commission on the Jamá of Lands which may be subjected to the payment of Revenue under Section* 26, *Regulation XIX and Section* 21, *Regulation XXXVII*, 1793, *and Section* 26, *Regulation XLI, and Section* 21, *Regulation XLII*, 1795; *and for determining on what amount such Commission, and the Commission granted to Collectors in cases of Lands being adjudged liable to the payment of Revenue in consequence of Prosecutions shall be calculated; and for requiring the Zillah and City Courts in the four Provinces to transmit to the Collectors and the Board of Revenue Copies of certain Decrees in suits between individuals respecting the right to Land exempted from the payment of Revenue; and for defining of what Decrees regarding Mal-*

guzarí Land the Zillah and City Courts are to furnish the Collectors and the Board of Revenue with Copies under Section 9, Regulation IV, 1793, *and Section 4, Regulation VIII,* 1795.—PASSED *by the Governor-General in Council on the 28th September* 1795.

Zillah and City Courts to furnish copies of certain decrees by which the right to, or the property in, any lands exempted from the payment of public revenue may be altered.

III. The Judges of the *Zillah* and City Courts in the four Provinces shall furnish the Collectors of the districts, in which the land may be situated, and the Board of Revenue with a copy of every decree in suits between individuals, which they may pass or which may be sent to them by superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the Collectors may be enabled to make the necessary entries of the alterations in such right or possession to be inserted in the Quinquennial Registers of lands held exempt from the payment of revenue, directed to be kept by Regulations XIX and XXXVII of 1793, and XLI and XLII of 1795. The copies of such decrees shall be transmitted by the Judge within twenty days after the same may be passed or received by him.

Of what decrees copies are to be transmitted to the Collectors and the Board of Revenue under section 9, Regulation IV of 1793, and section 4, Regulation VIII of 1795.

IV. The decrees regarding *malguzarí* land, which the Judges of the *Zillah* and City Courts in the four Provinces are directed by section 9, Regulation IV of 1793 and section 4, Regulation VIII of 1795 to transmit to the Collector of the *Zillah* and to the Board of Revenue, are hereby declared to be such decrees only as affect the proprietary right in, or possession of, the land.

REGULATION XV OF 1797.

A REGULATION *for levying certain Fees to defray the expense of the Offices for keeping the Records in the native languages which relate to the public Revenue, established under Regulations XXI of* 1793 *and XXX of* 1795.—PASSED *by the Governor-General in Council on the 24th November* 1797.

Preamble.

Regulations XXI of 1793 and XXX of 1795 directing the appointment of keepers of the Revenue Records in the native languages, these officers have been nominated accordingly; but the Governor-General in Council deeming it reasonable that the individuals whose rights and property may derive additional security from this institution should contribute towards defraying the expense attending it—the following rules have been enacted, to be in force in the provinces of Bengal, Bahár, Orissa and Benares from the date of the receipt of this Regulation in the several districts respectively.

II. *First.* Fees at the following rates shall be levied by the Collectors of the revenue on the registry of any division or union of an estate or estates, or of lands held exempt from the payment of revenue.

Fees to be levied by the Collectors on registry of the division or union of estates or lands.

Second. On any division of an estate, or union of estates paying revenue to Government, that may take place under Regulations XXV of 1793, or XXVI of 1795—at the rate of one quarter, or four annas per cent. on the annual *jamá* or revenue payable to Government from the property included in the union or division.

On estates paying revenue, four annas per cent. on the annual *jamá*.

[Regs. XXV of 1793 and XXVI of 1795 were repealed by s. 2, Reg. XIX of 1814.]

Third. On any division of lands exempt from the payment of public revenue, or any union of such lands forming originally part of the same grant, made by the proprietor or proprietors of the grant—at the rate of two and a half per cent. on the amount of the annual produce of the property included in the union or division.

On estates exempt from payment of revenue, two and half per cent. on the annual produce.

III. *First.* Fees at the following rates shall be levied by the Collectors on the registry of any transfer of the whole or the part of an estate or estates, or lands held exempt from the payment of revenue, by deed of sale, or gift or otherwise.

Fees to be levied on the registry of transfers of land.

Second. If the estate shall be subject to the payment of revenue to Government—one quarter or four annas per cent. on the annual *jamá* or revenue payable to Government from the property transferred.

On lands paying revenue, one quarter per cent. on the annual *jamá*.

Third. If the lands shall be held exempt from the payment of revenue to Government, two and half per cent. on the amount of the annual produce of the lands transferred.

On lands exempt from payment of revenue, two and a half per cent. on the annual produce.

IV. Throughout this Regulation, by the annual *jamá* payable to Government is to be understood the amount of the revenue payable to Government—for the year in which the division, union or transfer ma the be registered—according to the Permanent Settlement; or the engagements of farmers, if the lands be farmed; or the estimated receipts, if no settlement the lands shall have been concluded on the part of Government either with the proprietors or with farmers: and by the annual produce of lands held exempt from the payment of revenue, is to be understood the amount of the rents received and receivable by the proprietor or the possessor of the lands on account of the year preceding the year

What is to be considered the annual *jamá* payable to Government, and what the annual produce of lands exempt from payment of revenue. Mode of compelling the production of accounts to ascertain the

annual produce. Penalty for non-compliance.

in which the division, union or transfer may be registered; and the person in possession of such accounts shall be bound to produce them on a written requisition from the Collector, and shall be subject for non-compliance therewith to the payment of such daily fine until the accounts be produced, as the Board of Revenue may think proper to impose, on a consideration of the situation and circumstances in life of the party.

Fees and fines how to be levied.

V. The amount of the fees and the fines leviable under this Regulation shall be payable to the Collector on his demand; and, if not discharged, shall be leviable by the same process as the payment of arrears of revenue due to Government may be enforced.

[The Calcutta Board of Revenue, having ascertained that in some instances Collectors abstained from registering transfers duly ordered in Mutation proceedings until payment of the fees prescribed by this Regulation, reminded them that they have no power to refuse registry, nor is it optional with the proprietor to abstain from paying these fees, which should always be levied under this section, if not paid voluntarily.—*I B. L. R. Rev. Cir.* 1.]

Fee not to exceed one hundred sicca rupees in any one instance.

VI. No person shall be liable under this Regulation to the payment of a greater sum than one hundred sicca rupees on account of any transfer of an estate or part of an estate, or of lands held exempt from the payment of revenue; or any division of an estate, or the union of any estates or of lands held exempt from the payment of revenue; and accordingly, when the fee on any such transaction would, calculating according to the rates above prescribed, amount to a greater sum than one hundred sicca rupees, the excess above that sum shall not be demanded or received.

Fee prescribed by section 2, by whom to be paid.

VII. The fees on the division of any estate, or the union of estates paying revenue to Government, leviable under section 2 of this Regulation, shall be paid on the registry of the same by the party or parties who are bound to pay the charges attending the division of estates under the rules prescribed in Regulation XXV of 1793 or XXVI of 1795 (according to the province in which the lands may be situated), and in the same proportions. If the property divided or united be lands held exempt from the payment of revenue, the fees shall be paid by the parties in whose names the property may be registered in the proportion of their respective interests therein.

Fee prescribed by section 3, by whom to be paid.

VIII. The fees on the transfer of landed property by deed of sale, or gift or otherwise, leviable under section 3, shall be paid by the party to whom the property may be transferred on the transfer being entered in the public Registers of lands.

Fees to be carried to the credit of Government, and Collectors to grant receipts.

IX. All sums which may be received by the Collectors under this Regulation shall be carried to the account of Government, and the Collectors are required to grant receipts to the parties for the amount which may be paid by them respectively.

REGULATION I OF 1798.

A REGULATION *to prevent fraud and injustice in Conditional Sales of Land under deeds of Bai-bil-wafâ or other deeds of the same nature.*—PASSED *by the Vice-President in Council on the* 19*th January* 1798.

Preamble.

It has long been a prevalent practice in the province of Bahár to borrow money on the mortgage and conditional sale of landed property under a stipulation that, if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has in the above province been usually denominated *bai-bil-wafâ;* and the same transaction is common in Bengal under an instrument termed *kat-kabala.* It doubtless exists also under deeds of the above or similar denominations in Orissa and Benares; and since the promulgation of the rules respecting interest contained in Regulation XV, 1793 it has become more prevalent, particularly in the province of Bahár, wherein instances have occurred in which persons lending money on *bai-bil-wafâ,* in order to render the sale absolute and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it. In such cases the proof of the tender falls on the borrower, and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate. It is necessary therefore for the security of the borrower in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property, by the payment of the money lent upon it, within the period agreed upon between the parties; or whether from his having omitted to perform the conditions of such redemption the sale is become absolute and the property included therein finally transferred to the lender. For the above purpose and for the prevention of other abuses in the transactions referred to, the Governor-General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bahár, Orissa and Benares from the date of the receipt of this Regulation by the several Courts respectively.

Persons who have borrowed money on a conditional sale of land, and who may be desirous of

II. In all instances of the loan of money on *bai-bil-wafâ,* or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it with any interest due

redeeming the land by payment of the money lent upon it, how to proceed for this purpose—may within the stipulated period either tender and pay the amount due to the lender, or deposit the same in the local *Díwání Adálat.*

Receipt to be given by the Judge for such deposit.

Notice to be given to the lender, and payment to be made to him, under restrictions.

Specification of the deposit required.

Rights of the borrower preserved by making the required deposit.

Proviso with respect to deposits less than above required, if alleged to be the total amount due.

Such deposits to be also received, and to preserve the borrower's rights, if admitted or established to be the total amount due.

thereon within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender to deposit the amount due to him on or before the stipulated date in the *Díwání Adálat* of the city or *Zillah* in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date and for what purpose such deposit may have been made. He shall also at the same time cause a written notice of such deposit to be delivered to the lender, and, on the application of the latter and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited and take his acknowledgment, to remain among the records of the Court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows. When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or, if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent. But, if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. In either case, a deposit made as above required shall be considered to preserve to the borrower his full right of redemption, and, if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section. Provided, however, that if the borrower in any case shall deposit a less sum than above required alleging that the sum so deposited is the total amount due to the lender for principal and interest after deducting the proceeds of the lands in his possession or otherwise, such deposit shall be received, and notice given to the lender as above directed; and, if the amount so deposited be admitted by the lender or be established on investigation to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases be entitled to the recovery of his lands until it be admitted or established that he has paid the full amount due from him.

[See ss. 7 and 8 of Reg. XVII of 1806, *post*, and Notes thereto.]

When the lender has possessed the land, and an adjustment of

III. In all instances wherein the lender on a *bai-bil-wafâ* or similar conditional sale may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower,

the lender is to account to the borrower for the proceeds of the estate whilst in his possession on the principles prescribed with regard to mortgages and interest in Regulation XV, 1793, as far as the same may be applicable to the nature of the case. But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed whenever the principal sum with the simple interest due upon it shall have been realized from the usufruct of the mortgaged property or otherwise liquidated by the mortgagee, being inapplicable to the conditional-sales referred to in this Regulation, it is hereby declared not to apply thereto.

accounts may be necessary, he is to account for the proceeds of the estate on the principles prescribed in Regulation XV of 1793. Exception.

[Reg. XV of 1793 has been repealed by Acts XXVIII of 1855 and VIII of 1868.

The *fourth* section of Act XXVIII of 1855 enacts that a mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties. The *fifth* section enacts that whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum, provided that in the latter case the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated. The *sixth* section enacts that in any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property or other contract whatsoever (entered into after the passing of the Act), interest shall be calculated at the rate stipulated therein, or, if no rate of interest have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

There is no appeal from summary orders made by a District Judge under this Regulation.—*Harínath Kúndú* v. *Madhù Súdhan Sahá and another*, XIX W. R. 122.]

IV. A *típ* for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender, the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Típs not to be considered a legal tender in cases referred to, unless accepted by the lender. Such acceptance how to be proved.

V. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

Nothing in this Regulation to alter the contract between the parties, and all questions of right to be regularly determined by the Civil Courts.

[See *Barnamayi Dasi* v. *Benode Mohini Chaudhrain*, XX W. R. 387.]

REGULATION I OF 1799.

A REGULATION *for declaring a general freedom of Trade in Chunam and other articles on the Frontier of Sylhet, subject to certain Provisions.*—PASSED *by the Vice-President in Council on the 4th January* 1799.

Preamble.

On the 8th October 1790 sundry resolutions were passed by the Governor-General in Council and published in the Calcutta Gazette, relative to the trade in *chunam* and other articles on the frontier of Sylhet. These resolutions, with some modifications, are now enacted as a Regulation, which is to be considered in force from the date of its promulgation and to supersede the resolutions above mentioned.

Trade on the frontier of Sylhet declared free to all persons under the following restrictions.

II. The trade on the frontier of Sylhet with the Khasias and other mountaineers as well as with all other persons is declared free to the native inhabitants of the district of Sylhet, as well as to all other persons whatever. Provided, with respect to all descriptions of persons, that the trade be carried on under the general restrictions contained in the following section.

The Khasias, &c. not to be supplied with arms, ammunition, &c.

III. *Second.* No person shall supply the Khasias or other hill-people with arms, ammunition, saltpetre, sulphur or other articles of military store.

No armed men, excepting such as may be required for the personal safety of individuals, or of the security of their property, to be permitted to pass the Company's frontier.

Third. No *barkandáz* or other armed men belonging to individuals (excepting such as may be indispensably necessary for their personal safety or the security of their property,) shall be allowed on any pretence to pass to or beyond Laour, or beyond any other part of the Company's frontier.

All contraband articles liable to seizure in the attempt to pass the frontier, against the prohibitions contained in the foregoing section; and to be confiscated for the use of Government.

Police officers authorized to search all boats, &c. and in case of finding contraband

IV. The Magistrate of the district of Sylhet and his Police officers are required to cause strict observance of the provisions contained in the foregoing section, and all contraband articles which it may be attempted to pass by any of the frontier stations against the prohibition contained in the second clause, together with all boats, carriages or cattle which may be employed for the conveyance thereof, are declared liable to seizure and confiscation for the use of Government. The Police officers stationed at Laour and at the other frontier stations are authorized to search all boats, carriages and carriage-cattle for the purpose of ascertaining whether they contain any of the above-mentioned contraband articles (detaining them no longer than may be absolutely necessary for this purpose); and, if any such be found, they are to seize and send them

with the boat, carriage or cattle used in the conveyance of them, to the Magistrate of Sylhet, who shall make a full enquiry into the circumstances of the case, and, if he be satisfied that the articles seized are liable to confiscation under this Regulation, shall declare the same confiscated and report his proceedings to the Governor-General in Council for his orders as to the disposal of the property or otherwise. The Magistrate shall also report to the Governor-General in Council any instances of persons whether British subjects or others acting in opposition to the third clause of the preceding section, for such orders as may appear necessary; and any British subject or other European, as well as any Armenian, Greek or other person whatever, not being a native inhabitant of the district of Sylhet, who may be found to have acted in opposition to any part of section 3 of this Regulation, or who may be guilty of any misconduct in his intercourse with the hill-people, will be considered to have forfeited all title to remain in the above district and be liable, at the pleasure of Government, to be sent to Calcutta.

articles, to send them to the Magistrate, who may declare them confiscated, and report his proceedings to Government.

Magistrate to report deviations from the third clause, and any person not being a native inhabitant of Sylhet found to have acted contrary thereto, may be sent to Calcutta at the pleasure of Government.

V. The Police officers who may seize any property declared liable to confiscation under the preceding article shall be allowed twenty-five per cent. on the proceeds of the sale thereof; and, if the seizure shall have been made upon information from any other person, the same reward shall be granted to the informer. Provided however that, if the property seized shall not be declared by the Magistrate liable to confiscation, the person or persons who made the seizure, or who may have given any false information on which the seizure was made shall be liable to be sued for damages by the proprietor in the *Zillah Díwaní Adálat.*

Police officers entitled to twenty-five per cent. on the proceeds of contraband property seized by them, and persons giving information of such property entitled to a similar reward on the seizure thereof.

Persons seizing or informing of goods not afterwards found liable to confiscation, may be sued by the proprietors for damages.

VI. Provided also that any person dissatisfied with the Magistrate's order for confiscation under section 4 shall be at liberty to state his objections to the Governor-General in Council, who will afford such relief as may appear to him equitable, or leave the complainant to seek his remedy in the Civil Courts.

Any person dissatisfied with the Magistrate's order for confiscation may apply for relief to Government, who will either afford it, or leave him to seek it in the Civil Courts.

VIII. The provisions contained in this Regulation render it unnecessary for any trader, whether native, European or otherwise, to apply for the *parwánas* which have been heretofore granted by the Collector or Magistrate

Parwánas heretofore granted to traders &c. to be discontinued.

of Sylhet to the *thanadar* of Laour for the purpose of their being supplied with *chunam;* and all such *parwánas* are hereafter expressly forbidden to be issued, as militating with the general freedom of trade meant to be established by this Regulation. But nothing herein contained is to be understood to restrict the Magistrate of Sylhet from issuing such instructions to the Police *darogha* at Laour and to the other Police officers within his jurisdiction, as he may consider necessary to carry into full effect the several provisions of this Regulation, or to prevent disagreements and breaches of the peace between the traders and hill-people on the frontier, so that such instructions be not repugnant to this or any other existing Regulation.

REGULATION V OF 1799.

A REGULATION *to limit the interference of the Zillah Courts of Díwání Adálat in the Execution of Wills, and administration to the Estates of persons dying Intestate.*—PASSED *by the Vice-President in Council on the 3rd May* 1799.

Preamble.

I. DOUBTS having been entertained to what extent and in what manner the Judges of the *Zillah* Courts of *Díwání Adálat* in the Provinces of Bengal, Bahár, Orissa and Benares are authorized to interfere in cases wherein the inhabitants of the above provinces may have left wills at their decease and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal—with a view to remove all doubts on the authority of the *Zillah* Courts in such cases, and to apply thereto, as far as possible, the principle that in suits regarding succession and inheritance the Mahomadan laws with respect to Mahomadans and the Hindu laws with regard to Hindus be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above provinces respectively.

Executors to Hindus, Mahomadans, and others not being disqualified landholders, may take charge of the estate of the deceased, and proceed in execution of their trust, without any application to the Judge, or other officer of Government.

II. In all cases of a Hindu, Mussalman or other person subject to the jurisdiction of the *Zillah* Courts having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards under any Regulation relative to the jurisdiction of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the *Díwání Adálat* or any other officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases,

except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature.

Courts of Justice prohibited to interfere in such cases except on a regular complaint.

[This section so far as it relates to the executors of persons, who are not Mahomadans, but are subject to the jurisdiction of a District Court in the territories subject to the Lieutenant-Governor of Bengal, was repealed by section 4, Act XXI of 1870.]

III. In case of a Hindu, Mussalman or other person subject to the jurisdiction of the *Zillah* Courts dying intestate but leaving a son or other heir who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or, if under age or incompetent and not under the superintendence of the Court of Wards, his guardian or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence, and the Courts of Justice are restricted from interference in such cases except a regular complaint be preferred, when they are to proceed thereupon according to the general Regulations.

Heirs of persons dying intestate, entitled to succeed to the whole estate and not subject to the Court of Wards, or their guardians not required to apply to Courts of Justice for permission to take possession of the estate, as far as can be done without violence. And Courts of Justice restricted from interference without a regular complaint.

[So much of ss. 2 and 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by s. 1, Act XL of 1858, *Q. V.*]

IV. If there be more heirs than one to the estate of a person dying intestate and they can agree among themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference without a regular complaint, as in the case of a single heir; but, if the right of succession to the estate be disputed between several claimants one or more of whom may have taken possession, the Judge on a regular suit being preferred by the party out of possession shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security—declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto.

More heirs than one to the estate of an intestate may appoint a common manager and take possession as in the case of a single heir. But if the right of succession be disputed, the Judge on a regular suit to take security from the party in possession; Or, in default of such security, may put the other claimants giving it in possession. Such possession not to affect the right of property.

In what cases the Judge may appoint an administrator for the care and management of the estate of an intestate.

V. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate or other person entitled to receive charge thereof as executor, administrator or otherwise shall attend and claim the same; when, if the Judge be satisfied that the claim is well-founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him with a full and just account of all receipts and disbursements during the period of his administration.

And when such administration is to cease.

Security to be taken from administrators appointed under this Regulation; and in what manner their allowance is to be fixed.

VI. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court *of Sádr Díwání Adálat* to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.

[Ss. 5 and 6 have been amended by Reg. V of 1827, which provides that the Civil Court shall issue a precept to the Collector, directing him to attach the estate and appoint a person for the proper care and management thereof, &c.]

Judges how to proceed in cases of persons dying intestate leaving personal property to which there may be no claimant.

VII. The Judges of the *Zillah* Courts on receiving information that any person within their respective jurisdictions has died intestate leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property and to issue an advertisement in the current languages of the country, requiring the heir of the deceased or any person entitled to receive charge of his effects to attend for this purpose—such advertisement to be published on the spot where the property was found, at the *Díwání Adálat kachahrí* of the *Zillah*, and, if ascertainable, at the dwelling-place of the deceased, or, if the deceased were a European, in the *Calcutta Gazette*—after which should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as

executor, administrator or otherwise, the same is to be delivered up to him on repayment of any necessary expense incurred in the care of it. Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the Governor-General in Council for his orders.

[See Acts XIX of 1841, XXVII of 1860, X of 1865, and XXI of 1870.

This section was modified by s. 6, Reg. XV of 1806, which, referring to the 39th and 40th Geo. III, Cap. 79, s. 21 (which enacted that, when a *British subject* died intestate and neither a creditor nor next of kin applied for letters of administration, the Register of the Supreme Court should administer to the estate of the deceased) directed Zillah Judges, whenever a *British European subject* died within the limits of their jurisdictions and no will was to be found among the effects of the deceased, to report the circumstance without delay to the Register of the Supreme Court, retaining the property in their charge until letters of administration were obtained by the Register or some other person, when the property was to be delivered over to the person obtaining such letters, or, if a will were found subsequently, to the person obtaining probate of the will.

The law continued in this state up to 1855, when s. 6, Reg. XV of 1806 was repealed by s. 53 of The Administrator General's Act, VIII of 1855. S. 54 of this Act however retained the modification of 1806, though making no specific mention of s. 7, Reg. V of 1799. The very language of the old Regulation was used with one alteration merely, *viz.* that the Zillah Judge was now to report to the Administrator General, instead of to the Register of the Supreme Court. In 1865 The Indian Succession Act was passed, applicable to all Europeans. Under this Act District Judges in the Mofussil were first vested with the power of granting probate and letters of administration. For this and other reasons it became necessary to amend the law relating to the office of the Administrator General, and Act XXIV of 1867 was passed for this purpose. S. 61 of this Act contained amended provisions corresponding to those of s. 54 of Act VIII of 1855, which was repealed. These provisions were wider than those of the former Act and Regulation, for they related to all persons other than Hindus, Mahomadans or Budhists, or persons exempted under s. 332 of The Indian Succession Act. Act XXIV of 1867 was repealed by the Consolidating and Amending Act, II of 1874, section 64 of which re-enacted the same provisions which are as follows:—When any person other than a member of the above classes dies, leaving assets within the limits of the jurisdiction of a District Judge, it is the Judge's duty to report the circumstance without delay to the Administrator General, retaining the property under his charge, or appointing an officer under the provisions of s. 239 of the Succession Act to take and keep possession of the same, until the Administrator General shall have obtained letters of administration, or until some other person shall have obtained such letters or a certificate from the Administrator General, when the Judge must deliver over the property to the person obtaining such letters of administration or certificate, or, in the event of a will being discovered, to the person who may obtain probate of the will.]

VIII. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards in the appointment of managers or guardians for disqualified landholders, or in any case wherein a special power may be vested in the Court of Wards.

Nothing in this Regulation to limit, or alter, the jurisdiction of the Court of Wards.

REGULATION II OF 1800.

A REGULATION *for laying open to public use the Stone Quarries at Chunar, Ghazípore and Mirzapore in the Province of Benares, subject to a fixed Duty.* —PASSED *by the Governor-General in Council on the* 16*th January* 1800.

Preamble.

The stone quarries at Chunar, Ghazípore and Mirzapore in the province of Benares have been hitherto worked for the exclusive use of Government, and either let in farm under the provisions contained in sections 81 and 82 of Regulation XXII, 1795, or managed (since August 1797) by an agent, who disposed of the stones at stated prices, chiefly in the city of Benares. With a view to encourage the excavation of the quarries and bring a greater quantity of stones to sale for the general convenience of builders and others, a notification was published under date the 9th April 1799, that the stone quarries in the province of Benares had been laid open for public use, subject to a duty, the rates of which would be subsequently published for general information. In pursuance of this notification, and for the purpose of determining the rates of duty upon all stones quarried by individuals subsequent thereto, or which may be hereafter quarried under this Regulation, the following rules have been enacted by the Governor-General in Council, to be considered in force, as far as they respect the rates of duty, from the 9th day of April last, and in all other respects from the period of their promulgation in the province of Benares.

All persons, permitted to quarry stones.

II. All persons are hereby declared at full liberty to excavate stones of every description from the quarries at Chunar, Ghazípore and Mirzapore, subject to the provisions contained in the following sections of this Regulation.

A fixed duty to be paid to Government previously to removal of the stones.

III. On all stones excavated from the quarries specified in the preceding section a fixed duty shall be paid to Government, previously to the removal of the stones from the vicinity of the quarry where they may have been cut, according to the undermentioned rates, *viz.*:—

First. On the undermentioned eight descriptions of stones, at whichever quarry excavated, the duty to be as follows:

DESCRIPTIONS OF STONES.	*Rates of Duty.*		
Dhoka, or small stones of various dimensions usually sold by the 100 mds.	*Rs.* 2	4	per 100 mds.
Kolhú, or sugarcane millstones,			
1st sort, called *Burhía*	8	0	per stone.
2nd ditto, ditto *Surhí*	7	0	ditto.
3rd ditto, ditto *Kolhú bindra chul*	5	0	ditto.
Janta, a species of hand-millstone	12	8	per 100 pieces.
Chuhkí, ditto	6	4	ditto.
Sil, ditto	4	14	ditto.
Ditto, 2nd sort, less than a foot in breadth	3	4	ditto.

Secondly. On all other descriptions of stones the duty to be regulated by their solid contents in length, breadth and thickness as follows:

	Rs.	A.	P.	
Stones quarried at Chunar and Ghazípore, and not exceeding in their solid contents four cubic feet	0	2	8	per cubic foot.
Ditto ditto, above four and not exceeding five cubic feet ...	0	4	0	per ditto.
Ditto ditto, exceeding five ditto	0	5	0	ditto.
Stones quarried at Mirzapore, of whatever dimensions ...	0	2	6	ditto.

Statements of the descriptions of stones and the duty on each to be affixed in the Collector's *kachahrí* in the native languages.

IV. For the more full and ready information of stone-cutters and others, the Collector of Benares is directed to prepare in the Persian and Hindústání languages a detailed statement of the several descriptions of stones usually quarried at Chunar, Ghazípore and Mirzapore showing the amount of the duty upon each calculated according to the rates prescribed in the preceding section, and to keep the same constantly affixed in his *kachahrí*, as well as in some conspicuous place at each of the quarries under the inspection of the *daroghas* to be stationed at them respectively.

Duty to be paid into the Collector's treasury, and a *rawána* to be granted by him.

V. The duty specified in section 3 is to be paid into the treasury of the Collector of Benares, who on receipt thereof (or, in the event of the Collector's absence, his Head Assistant on the spot) is to grant a *rawána* under his official seal and signature directed to the *darogha* of the station where the stones may have been quarried, specifying the exact quantity and descriptions of stones for which the duty may have been paid and authorizing their removal from the quarry in consequence. This *rawána* is to be delivered by the party receiving the same to the *darogha* to whom it is addressed, and to be kept by the latter as his authority for allowing the removal of the stones therein specified.

Exact lists of the stones in prescribed forms to be delivered on application for *rawánas*.

VI. To enable the Collector to grant *rawánas* as above directed, the party applying for the same shall with his application and at the time of paying the duty deliver an exact list of the stones which have been quarried and for which the *rawána* is desired, specifying the name of the quarry, the number and descriptions of the stones, and their weight, number of pieces or solid contents (according as the duty may be payable upon either in conformity to section 3) with any other particulars contained in the detailed statements to be prepared and published by the Collector in pursuance of section 4, which statements are to be considered by all persons applying for *rawánas* as the prescribed forms for the lists herein required from them. To facilitate the preparation of such lists and to prevent inaccuracies which might delay the removal of the stones and adjustment of the duties thereupon, it is further hereby provided that, when any quantity of stones may have been quarried and the quarrier or any person in his behalf, or to whom he may have sold or otherwise transferred the same,

How such lists are to be prepared.

shall be desirous of obtaining a *rawána* for their removal, the *darogha* of the quarry, with whom a sufficient number of measurers are to be stationed for this purpose, shall on application cause the stones for which the *rawána* may be desired to be accurately counted, weighed or measured (according as the duty may be payable on the number, weight or measurement) in the presence of the owner of the stones or of such person as he may appoint; and the *darogha* thereon shall attest the lists of stones to be delivered to the Collector, as well as cause the same to be attested by the officer who actually counted, weighed or measured the stones, by subscribing thereto a certificate under his signature of the accuracy of the number, weight and measurement therein stated.

Measures to be taken for preventing fraudulent attempts to evade the duty, and

VII. The *daroghas* of the stone quarries, on causing any stones to be measured in pursuance of the preceding section, are to affix some mark thereto, and shall also by some means mark the heaps of stones which may have been counted or weighed, so as to identify the whole of the stones included in the lists attested by them, and are to take such precautions as may be necessary to prevent any change of, or addition to, the stones so collected and examined previous to the receipt of the Collector's *rawána* for their removal. If in any instance there should appear room for suspicion that the stones counted, weighed or measured before the application for the *rawána* have been subsequently changed or added to, the *darogha* is to cause the same to be recounted, weighed or measured in his presence, and, in the event of its being ascertained that any fraudulent change or addition for the purpose of evading the duty has been made, the whole quantity of stones, for the removal of any part of which such fraud may have been attempted, will be liable to confiscation under the provisions contained in section 11 of this Regulation.

Penalty for such attempts.

Rawánas to be returned monthly to the Collector, with a report of the quantity removed.

The *darogha* to furnish *charchittis* for each despatch of stones, free of any additional duty.

VIII. On the removal of the stones specified in the *rawána*, the *darogha* is to endorse thereupon the date or dates of removal with a certificate under his signature that the despatch has been made agreeably to the contents, and the *rawánas* so endorsed are to be returned at the end of each month to the Collector with a report of the quantity of stones removed from each quarry within the month. The *darogha* with every despatch of stones is also to furnish the person, by whom they may be taken from the quarry, with a *charchitti* or pass under his official seal and signature, specifying the number and descriptions of stones taken away and directing all officers of the quarry and others to allow the same to pass without molestation. No new duty however is to be levied upon such *charchittis* (of which a regular record is to be kept by the *daroghas* in such form as may be prescribed to them by the Collector), nor are the quarried stones herein referred to to be liable in any part of the Company's provinces to any other duty than that specified in section 3 of this Regulation.

X. The Collector of Benares is to nominate, for the approbation of the Board of Revenue, the *daroghas* to be stationed at the several stone quarries, and is to take from them the security prescribed in section 15, Regulation III, 1794, the provisions in sections 15, 16, 17, 18, 19, 20 and 21 of which Regulation are hereby declared to extend to all descriptions of native officers who may be employed under the present Regulation and be entrusted with the receipt of money or the charge of accounts. The Collector is to fix the allowances of the *daroghas* and the necessary establishment of officers to act under them, subject to the confirmation of the Governor-General in Council to be obtained through the Board of Revenue. He is also to furnish the *daroghas* with such rules and orders as from experience may appear most effectual to prevent the removal of any stones from the quarries without payment of the prescribed duty.

The Collector to nominate (for approbation of the Board of Revenue) the *daroghas*, who are to give the security required in section 15, Regulation III, 1794, and sections 15 to 21 of that Regulation declared to extend to all persons employed under the present Regulation. *Darogha's* allowances, &c. how to be fixed, and the rules for their guidance to be furnished by the Collector.

XI. Any stones which may be clandestinely or otherwise removed from the place of excavation, or place adjoining thereto where it may be usual to collect the stones when quarried, without paying the duty and obtaining the *rawána* required by this Regulation, shall be liable to immediate seizure and confiscation to Government, together with the cattle and carriages which may be used for the conveyance of such stones, and all other property seized therewith, which may in anywise have been used or intended for use in the illicit removal of the stones in question. As an encouragement to the officers of Government to do their duty in making such seizures, and to all other persons to give information by which the same may be made, the following rewards shall be paid by the Collector from the sale-produce of the stones and other property confiscated, as soon as the same shall have been disposed of by public sale in pursuance of the succeeding section, *viz.*—If the seizure be made by the public officers stationed at the quarries without information from any other person, a moiety of the sale-produce shall be given to them and be divided amongst them in such proportions as the Collector on inquiry may judge due to them respectively; or, if the seizure be made by the public officers upon information from any other person or persons, a quarter of the sale-produce shall be given to the seizers and another quarter to the informers to be distributed by the Collector as above directed. If any other person or persons than the officers stationed at the quarry shall both give the information and make the seizure, he or they shall be entitled to a full moiety of the sale-produce without the participation of the officers of Government, who, on the contrary, shall be liable to dismission from office for their neglect, if the

Stones attempted to be removed without paying duty, liable to seizure and confiscation, together with the carriages, &c.

Rewards to be paid as encouragement for making seizures, and in what proportions.

Punishment to the Government officers

for neglect of duty.

Rules for preventing undue molestation to the stone-cutters or persons removing purchased stones.

Collector on inquiry shall find them deserving of it; and, if there be sufficient evidence of any collusion on their part, they shall be prosecuted criminally for a breach of trust. But, to prevent undue molestation to the stone-cutters or persons who may purchase stones from them at the quarries, it is hereby required and directed that no obstruction be offered to the free passage of any stones on suspicion of their not having paid the established duty beyond certain limits round the quarries to be fixed by the Collector, and within which it will be the duty of his officers to keep vigilant watch for the purpose of detecting and preventing any attempts to remove the stones without a regular pass from the *darogha*. Moreover, any seizure of stones without sufficient grounds to warrant suspicion of an attempt to remove the same clandestinely or to evade the duty will subject the seizers (unless reparation be made as directed in the following section) to a prosecution in the Civil Courts for damages; and such Courts, on clear proof that the seizure was altogether unwarranted and that due reparation has been refused, are required to adjudge full damages to the party injured, besides all costs of suit.

Seizures to be immediately reported to the Collector.

Rules for the guidance of the Collector on receipt of such reports.

XII. Whenever any seizure may be made under the preceding section, an immediate report thereof shall be transmitted by the *darogha* of the quarry to the Collector of Benares with a circumstantial statement of all particulars relative thereto; and the Collector shall, as soon as possible, make such further inquiry as may be necessary in the presence of the parties concerned, if in attendance, or their authorized agents; after which, if it shall appear that the duty had been paid upon the stones seized or that it was not intended to remove them from the quarry without payment of the prescribed duty, he shall cause them to be immediately released and direct the party who seized them to make such reparation to the owner as may be adequate to the actual injury sustained by him, under penalty for non-compliance of being prosecuted in the *Díwání Adálat* for damages and costs under the preceding section. If, on the contrary, it shall clearly appear to the Collector that no duty has been paid on the stones seized and that an attempt was made to remove them from the quarry without payment of the duty, he shall declare the same confiscated to Government, together with any cattle, carriages or other property seized therewith and liable to confiscation under the preceding section; and shall immediately advertise the same to be publicly sold at his *kachahrí* on a day to be fixed for this purpose and to be at least fourteen days after the date on which he may pass the order of confiscation. All persons whose property may be so confiscated and advertised shall be at liberty at any time within ten days after the date of the Collector's order of confiscation to appeal therefrom by a regular suit in the *Díwání Adálat* of the city of Benares; and the Collector, if duly advised of such suit having been instituted, shall

Appeals authorized to the City Court.

defend the same through the *vakíl* of Government and postpone the sale till the determination of it, as well as conform to the judgment which may be passed thereupon, subject to the general rules for appeals. But all such suits shall be brought to a determination with the least possible delay and, if no notice of any suit having been instituted shall be served upon the Collector before the appointed time of sale, he shall make the sale as advertised, and no subsequent claim or plea against the confiscation of the property sold shall be received in any Court of Justice. The Judge of the city of Benares will of course take care that timely notice is given to the Collector of all suits instituted under this section within the ten days prescribed, and he is not to admit any appeal from the Collector's order of confiscation which may not be preferred within the period limited, unless satisfactory reason be assigned for the delay; nor in any case, when the appeal may not be preferred in time to give notice of it to the Collector before the appointed day of sale.

Board of Revenue to be furnished with reports of all confiscations, as well as any other accounts, &c. they may require from the Collector.

XIII. The Collector is to report to the Board of Revenue all confiscations and sales which may take place under the preceding section, as well as to furnish them with all other information, reports and accounts which may be required from him respecting the stone quarries and duties referred to in this Regulation or any matter relating thereto.

Power of increasing or reducing the duty reserved to the Governor-General in Council.

XIV. The Governor-General in Council reserves to himself the power of increasing or reducing the rates of duty established by this Regulation, if he should hereafter judge it proper, as well as to pass any further rules respecting the stone quarries in the province of Benares which may appear expedient.

Sections 81 and 82, Regulation XXII 1795 superseded, except clause fourth of section 82, exempting the inhabitants of the hills from payment of duty, which is to continue in force, and the Collector is to give instructions for providing against the abuse of it.

XV. The provisions contained in sections 81 and 82, Regulation XXII, 1795 are to be considered as superseded and done away by the present Regulation, except clause fourth of section 82, which exempts the inhabitants of the hills from the payment of any duty on stones quarried by them for their own use, and which exemption is still to continue in force; but the Collector, in his instructions to the *daroghas*, is to provide against the abuse of it in such manner as may be most effectual; and if, notwithstanding, any attempts should be made to extend the exemption beyond the intended privilege to the hill people, the stones to pass which such attempt may be made will be liable to seizure and confiscation under section 11 of this Regulation.

[Reg. XXII of 1795 was repealed by Act VIII of 1868, save as provided therein.]

REGULATION VIII OF 1800.

A REGULATION *for preparing a general Pargána Register of Lands, and for certain alterations in the prescribed Registers of Estates paying Revenue, and Lands held Exempt from the Payment of Revenue.*—PASSED *by the Governor-General in Council on the 3rd July* 1800.

Preamble.

BY Regulations XLVIII, 1793, and XIX, 1795, a general Register is directed to be kept of the landed estates assessed with the public revenue in Bengal, Bahár, Orissa and Benares; and by Regulations XIX and XXXVII, 1793, XLI and XLII, 1795, a Register is required of all lands held exempt from the payment of revenue in the four provinces. In the former the names of the estates in each *zillah* are directed to be arranged alphabetically, and in both the names of the villages contained in the estate or grant are ordered to be specified, as well as the *pargánas* and other local divisions comprehended therein. This specification in the whole of the Registers, which are directed to be prepared in three different languages and (in addition to the original Registers kept by the Collectors) to be copied for the use of the Courts of Judicature and Board of Revenue, has occasioned a voluminous detail productive of delay in keeping up the original Registers, at the same time that the form prescribed for those Registers and the necessary arrangement of them according to the estates and tenures included therein prevent their showing in a connected view the state of the *pargánas* or other local divisions of the country, several of which in some instances are included in one estate, whilst in others a *pargána* comprises many distinct estates, or several small estates and portions of estates situated in different *pargánas*. To remedy the above inconvenience, as well as otherwise to facilitate the punctual preparation of the Registers prescribed by the Regulations aforesaid, and to provide for a general Register of the lands, whether *malguzárí* or *lakhiráj*, according to their situation within the *pargána* or other established local division to which they are respectively annexed, the Governor-General in Council has enacted the following rules to be in immediate force throughout the provinces of Bengal, Báhar, Orissa and Benares.

Collector shall form *Pargána* Registers of all lands in their respective districts.

II. The Collector of Benares and the Collectors of the several *zillahs* in Bengal, Bahár and Orissa, on receipt of this Regulation, shall proceed to form a Register of all the lands in their respective districts of whatever description, to be denominated "Pargána Register of lands, *malguzárí* and *lakhiráj*;" and to be prepared as hereafter directed.

The Register shall contain a distinct head

III. *First.* The Register shall contain a distinct head for each *pargána*, or, where no *pargána* division may have been established, for such local

division as may have been established instead of a *pargána*, whether a *tappá*, *taraf*, or of whatever other known denomination; but, wherever the *pargána* division may exist, the lands within such division shall be registered under the head of the *pargána*.

for each *pargána*, or such other local division of lands as may have been established.

Second. The register of each *pargána* (or other local division where there may be no *pargána*) shall be divided into two parts, the one for *malguzárí* lands or lands assessed for the public revenue, the other for *lakhiráj* lands or lands exempted from the public assessment.

The Register of each division shall be divided into two parts, for *malguzárí* and *lakhiráj* lands.

Third. The *malguzárí* part of the Register shall comprise the following particulars of all lands within the *pargána* paying revenue to Government, to be specified distinctly for each estate situated therein.

What particulars the *malguzárí* part of the Register shall contain.

1. Name of the estate to which the lands appertain, as entered in the Register of Estates Paying Revenue to Government prescribed by Regulation XLVIII, 1793, and Regulation XIX, 1795, with a reference to the number under which the estate may have been entered in such Register.

2. Name of the proprietor or proprietors of the estate, as also entered in the Register of estates prescribed by the above Regulations.

3. A detailed statement of the several villages, portions of villages or other sub-divisions of each estate within the *pargána*, with an accurate enumeration of them for the purpose of being referred to in the Register of estates as provided in section 11 of this Regulation.

4. The *rakba* or measurement of each village or other sub-division, whenever the same may be ascertainable by public measurements to settle disputes, or otherwise.

5. The gross rents of any village or other sub-division which may have been ascertained by a *khas* collection, attachment or otherwise.

Fourth. The *lakhiráj* part of the Pargana Register shall comprise the following particulars of all lands within the *pargána* not paying revenue to Government, to be specified distinctly for each *lakhiráj* tenure situated therein.

What particulars the *lakhiráj* part of the Register shall contain.

1. Denomination of the tenure as entered in the Register of lands held exempt from the payment of revenue to Government, prescribed by Regulations XIX and XXXVII, 1793, XLI and XLII, 1795, with a reference to the number under which the tenure may have been entered in such Regulation.

2. Name of the holder or holders of the tenure, as also entered in the register of exempted lands prescribed by the above Regulations.

3. A detailed statement of the several villages, portions of villages, or other sub-divisions of each tenure within the *pargána*, with an accurate enumeration of them for the purpose of being referred to in the Register of exempted lands, as provided in section 11 of this Regulation.

4. The *rakba* or measurement of each village or other sub-division wherever the same may have been reported by the holders of *lakhiráj* tenures under the requisitions contained in the Regulations abovementioned, or may be otherwise ascertainable.

5. The gross rents of any village or other sub-division, the gross produce of which may have been ascertained.

At what period the general *Pargána* Registers are to be prepared, and how to be numbered.

IV. The first general Pargána Register shall be prepared for the current Bengal, Fussily and Willaity year 1207 in the districts wherein these eras are current respectively, and shall exhibit the required particulars respecting the *malguzárí* and *lakhiráj* lands in the several *pargánas*, as they stood at the commencement of that year of each era, so as to correspond with the Register of Estates Paying Revenue to Government No. 3, and the Periodical Registers of Lands held Exempt from the Payment of Revenue No. 2, which by the Regulations above referred to are ordered to commence with the year 1207 of the era current in each province. The original Pargána Register is to be numbered *one*. A similar general register is to be prepared at the commencement of the Bengal, Fussily and Willaity year 1212, to be numbered *two;* and thereafter to be numbered in the order in which it may be formed.

Intermediate *Pargána* Registers shall be kept for recording all alterations between the periods prescribed for forming the general Registers.

V. For the purpose of recording any alterations in the particulars required to be entered in the Pargána Registers, which may take place during the period prescribed for the formation of them, an Intermediate Pargána Register shall be kept under the same head as directed for the general Registers, in which all *pargána* annexations or separations, all divisions or transfers of estates, new information obtained respecting the measurement or rents of land, all resumptions of *lakhiráj* exemptions and generally all alterations in any of the particulars required to be entered in the Pargána Register of lands *malguzárí* and *lakhiráj* shall be duly recorded as soon as possible after such alterations may have been taken place, with a note of reference to such parts of the last formed Register as may be affected thereby. Provided, however, with respect to all transfers or divisions of estates in which an allotment of the public assessment may be necessary under the rules prescribed in section 10, Regulation 1, 1793, or any other Regulation, that no such transfer or division shall be registered until the assessment has been allotted as required by the Regulations: nor shall any entry in the Pargána Register be considered to affect the rights of Govern-

Provision respecting cases wherein an allotment of the assessment may be necessary. No entry in the Register shall affect the rights of Government.

ment either with regard to lands assessed with the public revenue or the lands held exempt from such assessment.

The Board of Revenue are to furnish the Collectors with forms of the Registers. In what language and by whom the Registers are to be kept, and how to be attested.

VI. The Board of Revenue are to furnish the Collectors of the several *zillahs* with a form for the Pargána Register required by this Regulation, which is to be kept by the Keepers of the Native Records with the assistance of such other native officers as may be appointed for this purpose. But the Collectors are to attest every page of the Register prepared by them, after ascertaining that it is accurate, and are to cause the Register to be bound up as soon as completed in a volume or volumes of uniform dimensions, each leaf of which having been previously paged is to be signed by the *Zillah* Judge, with a specification on the last leaf of each volume of the total number or pages contained in it in the handwriting of the Judge, as prescribed by the existing Regulations with respect to the other Registers thereby required. The Intermediate Register is also to be bound up, paged and attested, at the end of every Bengal, Fussily or Willaity year, in the same manner as above directed with regard to the Register; and the Collectors are enjoined to be careful that the Intermediate Register is at no time allowed to fall in arrear.

From what materials the General Registers are to be prepared, and how the materials, not already received, are to be procured.

VII. The Pargána Register to commence with the current year is to be prepared from the papers which have been already furnished by the proprietors and farmers of lands paying revenue, or by the holders of land exempt from the payment of revenue, for the Registers of these lands respectively required to be kept by Regulations XIX, XXXVII and XLVIII, 1793, and Regulations XIX, XLI and XLII, 1795; as well as from any other materials which may have been procured for the Registers of Estates Paying Revenue and the Periodical Registers of exempted lands directed to be prepared at the commencement of the current Bengal, Fussily and Willaity year 1207. Should any further papers or information be found requisite for the exact ascertainment of portions of estates situated within different *pargánas*, or the precise number and names of villages appertaining to the several estates in each *pargána*, or for the purpose of ascertaining any of the particulars to be specified under the three first heads of the *malguzárí* part of the Pargána Register, or the four first heads of the *lakhiráj* part of the Register, as stated in the third and fourth clauses of section 3 of this Regulation, the Collectors are authorized to require the same from the proprietors, farmers, and under-tenants of *malguzárí* lands, or from the holders of *lakhiráj* lands, in the same manner as they are authorized by the Regulations abovementioned to require from such persons any information that may be necessary to enable them to form the Registers therein prescribed, and under the same penalties for non-compliance. But the Collectors are not to require from the proprietors or farmers of *malguzárí* lands or from their under-tenants any papers or information

The Collectors are not to require

Information respecting the rents or measurement of *malguzárí* or the rents of *lakhiráj* lands. How such information is to be procured.

respecting the measurement or rents of such lands, nor from the holders of *lakhiráj* lands any papers or information respecting the rents of lands of this description, for the purpose of entering the same in the Pargána Register; it being intended only that the measurement and rents of *malguzárí* lands, and the rents of *lakhiráj* land should be entered in the Register, when the same may be ascertained by public measurements, *khas* collections, attachments or such other occasional means as may furnish the necessary information for completing these subsidiary heads of the Pargána Register, which are to be left blank until such information may be obtained.

From what materials the Intermediate Registers are to be formed, and how any further information is to be procured.

VIII. The information required to be furnished for the Register of Intermediate Mutations in landed property and the Register of Intermediate Resumptions or other Occurrences respecting grants of exempted lands will furnish the Collectors with the necessary materials for the Intermediate Pargána Register prescribed by section 5; but, if any further information should be requisite, they are authorized to require the same under the provisions and restrictions specified in the preceding section.

What measures the Collectors are to take to render their General Registers complete.

IX. The General Register for the current year and subsequent Intermediate Register, if duly kept up, must furnish the Collectors with full materials for the Pargána Register to be prepared in the year 1212 and at every future period. They are also to be careful to avail themselves of any occasional means of authentic information from public measurements, attachments or otherwise, and it is expected that in the course of time their Pargána Registers will contain an accurate statement of the lands and rents throughout their respective districts. To promote the former object they are further directed to note the boundaries of villages or other subdivisions whenever the same may be ascertained, and also, as far as practicable, the limits of the *pargánas* (or other local divisions, where there may be no *pargánas*) within their respective Collectorships. No change in the existing limits of *pargánas* or in the *mahál*s composing them is to be made by the Collectors without the sanction of the Governor-General in Council; but, if any Collector should judge it expedient to alter the existing boundaries of a *pargána* for the purpose of rendering it more compact or otherwise, or to separate any village, *táluk* or other *mahál* from the *pargána* to which it may be now attached and annex it to any other *pargána*, he shall state his reasons at large for such alteration to the Board of Revenue, who will submit the same to the Governor-General in Council with their opinion upon the expediency of the alterations proposed for his determination. Provided that, whenever any such *pargána* separation or annexation may take place, it shall in no respect affect the rights of the proprietor or occupant of any village, *táluk* or other *mahál*s included therein; and provided further that

No change in the existing limits of *pargánas* &c. to be made without the previous sanction of Government.

The above rule not to preclude the Collectors from reannexing *mahál*s separated since 1197.

the above restriction against the alteration of existing *pargánas* without the sanction of the Governor-General in Council shall not be considered to preclude the Collector from reannexing to their proper *pargána* any *maháls* which may have been separated therefrom by the landholders since the commencement of the Bengal, Fussily or Willaity year 1197, and formed into separate *tarafs* or otherwise.

Copies of entries in the Registers to be sent by one Collector to the other, in the case of lands separated from one *zillah* and annexed to another.

X. Whenever any lands may be ordered to be separated from one *zillah* and annexed to another, the Collector of the *zillah* from which the separation may be made is to transmit to the Collector of the *zillah* to which the annexation is to be made an attested copy of all entries relative to the lands transferred in the last formed Pargána Register, as well as any entries relative thereto in the subsequent Intermediate Register, together with any other information that may have been obtained respecting such lands. These documents will enable the Collector of the *zillah* to which the lands may be annexed to make the necessary entry of them in his Intermediate Pargána Register, as well as in the new General Register that may be prepared by him.

Certain parts of Regulations XIX, XXXVII and XLVIII of 1793, and XIX, XLI and XLII of 1795, respecting the specification of names of villages or other subdivisions, rescinded, and the names of *pargánas* and number of villages &c. only to be inserted in the Registers in future.

XI. A reference to the Pargána Register when duly prepared according to the preceding sections will at all times enable the officers of Government to ascertain the several villages, portions of villages or other subdivisions of any estate included in the Register of Estates Paying Revenue to Government, or of any *lakhiráj* tenure included in the Register of Lands Exempt from the Payment of Revenue, provided that each *pargána* (or other local division, where there may be no *pargána*), in which any part of such estates or tenures may be situated, be specified in the said Registers with the number only of the villages or other subdivisions in each *pargána*. Such parts therefore of Regulations XIX, XXXVII and XLVIII, 1793, and Regulations XIX, XLI and XLII, 1795, as require a specification of the names of villages or other subdivisions in the Registers thereby prescribed in addition to the names of the *pargánas* comprising such villages or other subdivisions, are hereby rescinded; and in the Registers prescribed by the above Regulations to commence with the current Bengal, Fussily and Willaity year 1207, as well as in all future Registers, whether the General Register of Estates Paying Revenue or of Lands Exempt from Revenue, or the Intermediate Registers of Mutations, Resumptions and other Occurrences, it is required only to specify the *pargánas* (or other local divisions, where there may be no *pargánas*) in which any part of the estates and tenures included in the Registers may be situated, with the exact number of villages or other subdivisions appertaining to the estate or tenure in each Pargána Register. The Collectors are enjoined to take the utmost care that the names of the *pargánas* (or other local divisions, where there may be no *pargánas*,) as well as the number

Collectors to be careful that the names, &c. are conformable to the Pargána Register.

How mistakes in the Pargána Registers are to be rectified.

of villages or other sub-divisions stated to be in each are exactly conformable to the Pargána Register; and are to furnish their native officers appointed to prepare the counterpart Registers with particular instructions for this purpose. The mode of correcting any mistakes in Registers prescribed by the above mentioned Regulations has been provided for in them; and, if any should occur in the Pargána Register, they are to be rectified in the same manner in the Intermediate Register prescribed by section 5 of this Regulation.

Further parts of the above Regulations, respecting the insertion of the measurement and rents of land, rescinded.

XII. A reference to the Pargána Register will also shew the measurement and rents of land, whenever the same may have been ascertained, and enable the Collectors to furnish this information to the Board of Revenue for public sales of land or otherwise, when required. It will therefore be no longer necessary to include either of these items, *viz.* the measurement or rents of land, in the Registers of estates, or of exempted lands prescribed by Regulations XIX, XXXVII and XLVIII, 1793, or Regulations XIX, XLI and XLII, 1795; and such parts of those Regulations as require the same to be inserted in the Registers therein specified are hereby rescinded.

Further explanation of what is meant by the term "estate."

XIII. In section 2, Regulation XLVIII, 1793, and Regulation XIX, 1795, prescribing a Quinquennial Register of estates paying revenue to Government, it is explained that "by the term 'estate' is to be understood any land being *malguzári* or subject to the payment of public revenue, for the discharge of which a separate engagement has been or may be entered into with Government." But as this definition strictly construed would exclude estates held *khas* in consequence of the proprietors having declined to engage for the public assessment thereupon under the option given by the rules for the permanent settlement as well as the estates of disqualified proprietors, which by those rules and by Regulation X, 1793 were placed under the superintendence of the Court of Wards, as well as estates belonging to Government for the revenue of which no engagement may have been taken—and it being intended that all lands paying revenue to Government should be included in the Registers of estates prescribed by Regulations XLVIII, 1793, and XIX, 1795—it is hereby further explained that by the term 'estate' therein used is to be understood any land subject to the payment of revenue for which a separate engagement may have been executed to Government by the proprietor or by a farmer, or which may have been separately assessed with the public revenue, although no engagement shall have been executed to Government, as in cases where the estate may be held *khas* by a *sazawal* or other officer on the part of Government, or be managed by a *sarbarahkar* for the benefit of a disqualified proprietor.

All alterations in the annual revenue, with

XIV. The "Register of Intermediate Mutations in Landed Property," prescribed by section 16, Regulations XLVIII, 1793, and XIX, 1795, was intended to

include all alterations in any of the entries in the Registers which might take place within the periods at which these Registers are directed to be prepared. All alterations in the amount of the annual revenue assessed upon estates should therefore be stated in the Registers of Intermediate Mutations, whether proceeding from an allotment of the fixed assessment upon portions of divided estates in conformity to section 10, Regulation I, 1793, and section 7, Regulation XXVII, 1795, or from an increase or decrease of the assessment upon any estate, as fixed at the period of the permanent settlement or subsequently thereto. In all such cases the particulars of the allotment, increase or decrease are to be clearly stated in the Register of Intermediate Mutations; and, whenever an abatement of revenue may be inserted, the authority for such abatement is to be invariably quoted with the date on which it may have been granted by the Governor-General in Council and communicated by the Board of Revenue.

the particulars thereof, to be inserted in the Register of Intermediate Mutations prescribed by section 16, Regulations XLVIII, 1793, and XIX, 1795.

XV. Such parts of Regulations XIX, XXXVII and XLVIII, 1793, and Regulations XIX, XLI and XLII, 1795, as direct counterparts of the several Registers therein specified to be kept in the Bengal and Hindustaní languages, are hereby rescinded; and in future it is required only that an exact counterpart of the several English Registers be kept in the Persian language, to be prepared and authenticated as directed in the Regulations above mentioned. Such parts of those Regulations as direct the Collectors of the several *zillahs* to furnish copies of the prescribed Registers to the Judges of the *Díwání Adálats* of their respective *zillahs*, and to the Provincial Courts of Appeal in the jurisdiction of which their respective *zillahs* are included, or which require the Board of Revenue to furnish the Sádr Díwání Adálat with a copy of the prescribed Registers for each *zillah*, are likewise hereby rescinded; and instead thereof the *Zillah* and City Courts of *Díwání Adálat* and Provincial Courts of Appeal are authorized, whenever they may have occasion to refer to any of the Registers prescribed by the above Regulations or by the present Regulation, to require from the Collectors the production of the original register or an attested copy of such part thereof as may contain the required information. The Collectors, on the receipt of such requisition, are immediately to transmit the original Register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned; or, if the original Register cannot be conveniently sent, are to transmit without delay an accurate copy of such part thereof as may be required under the attestation of their official signature. In like manner the Board of Revenue, on the requisition of the Court of Sádr Díwání Adálat, are to furnish any *Zillah* Register received by them which may be required by that Court, or a copy attested by the signature of their Secretary or Accountant of any part thereof which may be required. In the event of any

Such parts of Regulations XIX, XXXVII and XLVIII of 1793, and XIX, XLI and XLII of 1795, as direct counterparts of the Registers to be kept in the Bengal and Hindustaní languages, and copies to be furnished to the Courts of Justice, rescinded; and

How the Courts are to proceed whenever they have occasion to refer to any of the Registers.

Courts to report to Government the explanations given by Collectors for not having the Registers completed within the prescribed periods.

Collectors or acting Collectors, on taking charge, to ascertain whether the Registers have

been duly prepared, and if not, to report the same to the Board of Revenue for the information of Government.

Register required by a Court of Justice not having been prepared and the period fixed for its preparation having elapsed, the Collector is to explain to the Court the cause of such Register not having been prepared, and the explanation so given is to be transmitted by the Court receiving it to the Governor-General in Council. Any person succeeding to the office of Collector or invested with the temporary charge of such office is also required, immediately on his taking charge, to ascertain whether the prescribed Registers have been duly prepared; and, if not, to report the same to the Board of Revenue with any explanation he may have received of the omission for the information of the Governor-General in Council.

The copies directed by the above-mentioned Regulations to be sent to the Board of Revenue shall be sent to their Accountant, who is to examine and in certain cases report thereon.

XVI. The copies of the several Registers, which the Collectors of Bengal, Bahár and Orissa by section 42, Regulation XIX; section 37, Regulation XXXVII, and section 26, Regulation XLVIII, 1793, are required to furnish to the Board of Revenue, shall be transmitted by the Collectors at the periods therein specified in the English and Persian languages to the Accountant of the Board of Revenue, who is to report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods, or of the copies not having been received within the year at the commencement of which the Registers are directed to be prepared, and is to return to the Collectors for correction any copies of Registers received from them which may not have been prepared according to the prescribed form. The Accountant is also to compare the assessment stated in the Registers of Estates Paying Revenue with the accounts of the Permanent Settlement deposited in his office, as well as with any accounts or information which may from time to time be communicated to him by the Board of Revenue of any authorized alterations in the assessment, whether from allotments of the fixed assessment upon divisions of estates or from any increase or decrease of assessment from whatever cause; and the Secretary to the Board of Revenue is to be careful that the Accountant is regularly informed of all such alterations which may be authorized. When the Collector may have omitted only to quote the authority for such alterations in his Register of Intermediate Mutations, the copy of the Register is to be returned to him by the Accountant to supply the omission; but, if in any case it shall appear to the Accountant that the Collector has stated any alteration in the assessment of an estate without due authority, he is to report the same to the Board of Revenue with any explanation given by the Collectors for such orders as may be necessary, or for the determination of the Governor-General in Council.

The Board of Revenue are to furnish the Collectors with new forms for

XVII. The Board of Revenue are to furnish the Collectors with new forms for the several Registers prescribed by Regulations XIX, XXXVII and XLVIII, 1793, and Regulations XIX, XLI and XLII, 1795, adapted to the alterations

directed by the present Regulation; and the Collectors, on receipt thereof, are enjoined to prepare the Register of Estates Paying Revenue and Periodical Registers of lands held exempt from revenue, directed to be formed at the commencement of the current Bengal, Fussily and Willaity year, with the least possible delay. They are also, without waiting for the completion of these General Registers, to transmit to the Accountant of the Board of Revenue as soon as possible the quarterly entries in their Registers of Intermediate Mutations and Resumptions from the commencement of the current year, and are to be particularly careful that the same are regularly transmitted in future. The omission of the detail of villages, measurements and rents in the whole of these Registers and the discontinuance of the counterparts in the Hindústaní and Bengal languages will, it is expected, enable them to keep the several Registers hereafter with the utmost punctuality; and to promote this material object a sufficient number of officers shall be appointed to assist the native Record-keepers in keeping the Pargána Register prescribed by the present Regulation, as well as the Persian counterparts of the Registers of Estates Paying Revenue, and Lands Exempted from the Payment of Revenue prescribed by the Regulations abovementioned, and in preparing the copies of these Counterpart Registers directed to be transmitted to the Accountant of the Board of Revenue.

the Registers adapted to the alterations now directed.

Collectors to be regular in the transmission of the required papers, and

to propose officers to assist in the preparation of them.

XVIII. On receipt of the reports required from the Collectors by the preceding section, the Board of Revenue are to submit to the Governor-General in Council the necessary establishments of native officers for keeping up the several Registers prescribed; and, if any additions to the present establishments should appear to them indispensably necessary for the purpose, they are to state the same to the Governor-General in Council for his determination. The officers so appointed or who may be hereafter appointed for the purposes specified in the preceding section shall not be removable without proof of misconduct to the satisfaction of the Governor-General in Council. They are to be exclusively employed in preparing and copying the prescribed Registers whilst any part of these shall be in arrear; and, after completing the Register directed to be prepared for the current year, are with the least possible delay to complete the Registers in arrear for former years; but the preparation of the current year's Registers is not to be delayed for those of former years, unless the Collectors shall judge it advisable in any instance from the forward state of their Registers for past years or otherwise, in which case they are to report the same to the Board of Revenue and to be guided by their instructions.

Board of Revenue to submit the necessary establishments to Government.

Rules respecting the removal of officers appointed for this duty, and how they are to be employed.

XIX. By section 26 Regulation XIX, 1793, section 21 Regulation XXXVII, 1793, and the corresponding sections in Regulations XLI and XLII, 1795, all lands held exempt from the payment of revenue, which the holders may have

Collectors to ascertain whether the publications directed in

Section 25, Regulation XIX and Section 20, Regulation XXXVII of 1793 and similar sections of Regulations XLI and XLII of 1795 have been made; and if not, to cause them to be made, allowing one year from the publication for the prescribed registry, after which all unregistered land held exempt from revenue shall be assessed as prescribed in those Regulations.

omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shown to the satisfaction of the Governor-General in Council for their not having been registered within the limited period. It appearing, however, that the publications directed in section 25 Regulation XIX, 1793, section 20, Regulation XXXVII, 1793, and the corresponding sections in Regulations XLI and XLII, 1795, have not in every instance been made as therein directed—*viz.* the publication respecting lands held under *Badshahí* grants in the principal *kachahrí* of the holders of such grants, and respecting other exempted lands, in the principal *kachahrí* of every proprietor and farmer of land paying revenue to Government, and of every native collector in lands held *khas* by Government, or, when the estate, farm or *khas* land may consist of two or more whole *pargánas* or portions of *pargánas*, in the principal *kachahrí* of each *pargána* or portion of a *párgána* comprised in such estate, farm or *khas* land—the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and if not, they are to cause the same to be made without delay in the manner prescribed as well as in their own *kachahrís* and in the *kachahrís* of the *Díwání* Courts situated within their respective *zillahs*, allowing the further period of one year from the date of such publications for the registry of the lands therein specified. After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed under the provisions contained in the above Regulations, whenever the same may be discovered; and the Collectors are to enter lands so assessed (together with all other *lakhiráj* lands which may be brought upon the public assessment) in their succeeding Register of Estates Paying Revenue, as well as in their Register of Intermediate Mutations.

Notice to be given to the Collectors of the establishment of new villages under certain penalties.

XX. Whenever any new village may be established upon lands paying revenue to Government, the name of which shall not have been included in the list of villages delivered to the Collectors for the purpose of preparing the prescribed Registers of these lands, the proprietor of the estate in which such new village may be situated, or the farmer if the estate be let in farm by Government, or the *sarbarahkar* or *khas* officer who may have the management of the estate if it be a *sarbarahkarí* or *khas mahál*, is to give notice to the Collector immediately on the establishment of such new village, that the same may be entered in the public Registers. In default thereof, or in the event of its appearing that any village or other portion of an estate subject to the payment of revenue has been wilfully omitted in the village statements which the Collectors are authorized to require for the purpose of preparing the public Registers, the

village or other portion of an estate so wilfully omitted shall be liable to forfeiture to Government, if the statement which ought to have contained it shall have been furnished by the proprietor; or if furnished by a farmer, *sarbarakkar*, *sazawal* or other officer, the person who may have furnished the same shall be liable to a fine to Government in such amount as the Governor-General in Council on consideration of the circumstances of the case may think proper to impose. The Collectors are to report all cases of this nature to the Board of Revenue, who are to submit the same with their sentiments for the determination of the Governor-General in Council.

Notice to be given to the Collector by all persons succeeding to landed property by inheritance or otherwise.

XXI. That the Collectors may be regularly informed of all future changes in the property of *malguzárí* estates or *lakhiráj* tenures within their respective *zillahs* for the purpose of entering the same in the prescribed Registers, all persons succeeding to the property of any *malguzárí* estate or *lakhiráj* tenure whether by inheritance, purchase, gift or otherwise, are required to notify such succession immediately after the same may have taken place to the Collector of the *zillah* in which the estate or tenure succeeded to may be situated, and to furnish such information as may be necessary to enable the Collector to make the prescribed entries in the public Registers. The Collectors on receiving the notification are to make such inquiry as may appear necessary to ascertain the truth of the alleged succession to or transfer of the property, and, if the same shall appear to have taken place, are to make the requisite entries in the Intermediate Pargána Register, in the Intermediate Register of Mutations in Lands paying Revenue, and the Intermediate Register of Occurrences respecting lands held exempt from the payment of revenue; provided, with regard to all such entries, that they shall not in any degree affect the rights of any party whose name may be registered therein as the ostensible proprietor of the land or whose name may not have been registered as the proprietor, but who may establish a right of property in the *Díwání Adálat* or otherwise. Any person succeeding to the property of a *malguzárí* estate or *lakhiráj* tenure, who may not give the notification above required to the Collector, or any person who may wilfully misrepresent to the Collector his having succeeded to the property of an estate or tenure, to which on inquiry it may appear he has not succeeded, shall for such omission or misrepresentation be liable to a fine to Government, to be fixed by the Governor-General in Council on a report from the Collector through the Board of Revenue of the nature and circumstances of the case. When the person succeeding to the estate or tenure may be a minor or otherwise disqualified from giving himself the notice required, his guardian or whoever may act for him in the management of the estate or tenure succeeded to, is to give the information required under the prescribed penalty.

Collector to inquire into the truth of such allegation.

Penalty for neglect of giving such notice, or wilful misrepresentation in giving it.

[One of four brothers, who had his name registered on the Collectors' Register as owner, conveyed his share to his daughter and applied to have her name registered. Another brother

objected on the ground that the property was ancestral and could not be alienated. *Held* that the Collector was bound to register the daughter's name, but that such registration would not prejudice any question of title or right that might be raised in a regular suit brought to try such question—*Kawalbass Kùnwar* v. *Lal Bahadur Singh*, IX Moo. Ind. Ap. 39.

Successful opposition to mutation of names gives a good cause of action for a suit for declaration of title—*Rewat Mahtun and another* v. *Penam Mandar and others*, XXII W. R. 9.]

REGULATION X OF 1800.

A REGULATION *for preventing the Division of landed Estates in the Jangal Mahals of the Zillah of Midnapúr and other Districts.*—PASSED *by the Governor-General in Council on the* 11*th December* 1800.

Preamble.

BY Regulation XI, 1793 the estates of proprietors of land dying intestate are declared liable to be divided among the heirs of the deceased agreeably to the Hindú or Mahomadan laws. A custom, however, having been found to prevail in the Jangal Mahals of Midnapúr and other districts, by which the succession to landed estates invariably devolves to a single heir without the division of the property, and this custom having been long established and being founded in certain circumstances of local convenience which still exist—the Governor-General in Council has enacted the following rule to be in force in the provinces of Bengal, Bahár and Orissa from the date of its promulgation.

Regulation XI, 1793 not to operate in the Jangal Mahals of Midnapúr and other districts.

II. Regulation XI, 1793 shall not be considered to supersede or affect any established usage which may have obtained in the Jangal Maháls of Midnapúr and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir to the exclusion of the other heirs of the deceased. In the *maháls* in question the local custom of the country shall be continued in full force as heretofore and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those *maháls*.

[See ss. 36 and 37 of Reg. XII of 1805.

The construction to be put upon this Regulation and Reg. XI of 1793 read together was discussed in *Rájá Dídar Hosein* v. *Rani Zahúranissa*, II Moo. Ind. Ap. 476. Their Lordships of the Privy Council said:—"It was, however, contended on the part of the appellant, that the Reg. of 1793 was repealed with respect to this *zemindári* by another Regulation (X of 1800). . . . . But it is clear to their Lordships that this latter Regulation did not apply to undivided *zemindáris* in which a custom might prevail that the inheritance should be indivisible, but only to the jangal mahâls and *other entire districts, where local custom prevails.* The construction contended for, *viz.* that every individual *zemindári*, in which the custom had been that it should descend entire, was exempted, would repeal the Regulation of 1793 altogether, whereas it is clear that it was intended to be partially repealed only." In an earlier portion of the same judgment, their Lordships said.—"Two grounds, therefore, on which the appellant

Construction of Regs. XI of 1793 and X of 1800.

has rested his claim having failed, it now becomes necessary to dispose of the third, that principally insisted upon in the argument before us, *viz.* the supposed *family custom* that the zemindárí had never been separated, but devolved entire on every succession, and that such custom was still in force. If the existence of the custom in point of fact was the question to be determined by their Lordships, they would have entertained some doubt upon it; for the circumstance that the zemindárí had been held entire for a very long period would seem to indicate that the ordinary rules of succession had not been applied to it, and gives great countenance to the supposition that such a custom existed. But, supposing that were so, *their Lordships are clearly of opinion that the family usage cannot exempt this zemindárí from the operation of the Reg. XI of* 1793." This case seems to decide that in the provinces of Bengal, Bahár and Orissa *local* custom prevailing in an entire district may, though *family usage* cannot, make a zemindárí impartible and descendible to a single heir in cases to which Bengal Reg. XI of 1793 is applicable. In the case of the *Tírhút Raj*[1] their Lordships said:—" We apprehend that the principle upon which we are about to proceed in this case admits of no doubt or question whatever. By the general law prevailing in this district (Tírhút) and indeed generally under the Hindú law, estates are divisible amongst the sons when there are more than one son; they do not descend to the eldest son, but are divisible amongst all. With respect to a ráj, as a principality, the general rule is otherwise and must be so. It is a sovereignty, a principality—a subordinate sovereignty and principality, no doubt, but still a limited sovereignty and principality—which, in its very nature, excludes the idea of division in the sense in which that term is used in the present case. Again, there is no doubt that the general law with respect to inheritance, as well as with respect to other matters, may *in the case of great families*, where it is shown that usage has prevailed for a very long series of years, be controlled unless there be positive law to the contrary. Now it is said in this case that there is no positive law which excludes the divisibility, unless it be clearly proved to be an ancient ráj, which it is denied that it is. But Reg. XI of 1793 really has no bearing upon the case, *for the Regulation of* 1793 *is confined to cases in which there is no deed and no will executed.* While there is a deed, or where there is a will, it does not give a validity to that deed or that will which the deed or will would not otherwise possess, but leaves it precisely where it stood before; therefore the Regulation of 1793 and Reg. X of 1800 and the authorities upon this point, which have been referred to, do not appear to their Lordships to be at all involved in the consideration of the present case." In this case there was a deed of gift by the late Rájá to his eldest son. The decision did not turn on the point whether *family usage* can render a zemindárí impartible in cases to which the Regulation applies. It was decided merely that a ráj, in respect of which there is evidence of family usage of impartibility, is an exception to the general rule of Hindú law as to partibility. Whether this general proposition would be affected by Reg. XI of 1793 was not a question which arose, there being a deed of gift, and the Regulation being therefore inapplicable. Family usage through fourteen generations was proved, and the custom founded thereon was held to be a good custom in respect of a ráj. In the *Hunsapore case*[2] (*Babú Bírpertab Sahí* v. *Maharájáh Rajendra Pertab Sahí*, XII Moo. Ind. Ap. 1, and IX W. R. P. C. 15), their Lordships spoke of Reg. XI of 1793 as " a general law, which confessedly does not affect the descent of large *zemindáris* held as *ráj*, or subject to *kúlúchár* or family custom." It may be observed, however, that in this case also there was a deed or will, the validity of which was held to have been proved. In the *Shoosung* case the High Court held (II W. R. Civ. Rul. 80) that the estate in question was not an indivisible

Reg. XI of 1793 has no application where there is a deed or will.

[1] *Gunesh Dutt Singh* v. *Maharájá Moheshur Singh and others*, VI Moo. Ind. Ap. 187.

[2] For this case before the Calcutta High Court, see W R. Special No. 97.

ráj, and that an alleged family custom of descent to the eldest son to the exclusion of the other sons had not been proved. In appeal to the Privy Council, the decision on the first point was not seriously contested and remained undisturbed. Their Lordships, having expressed their opinion that the estate after settlement with Government was held as an ordinary *zemindárí*, observed that such settlement would not of itself have operated to destroy a family usage regulating the manner of descent. "It would not have had this effect" they proceeded "in the case of a well-established ráj (see *Babú Bírpertab Sahí* v. *Maharájáh Rajendra Pertab Sahí*, XII Moo. Ind. Ap. 1), and even in the case where the origin could not be shown, it may be assumed that it would not of itself affect an existing family custom. Reg. XI, 1793 was passed soon after this settlement. That Regulation has been held not to be applicable to the succession of a well-established ráj (see XII Moore 1; and VI Moore 161—7). But the respondents contend that, notwithstanding the qualification placed upon it by Reg. X, 1800, it does govern a case like the present, where the claim rests only on a continuing family usage, and not on the peculiar character of the zemindárí itself or on a local or district custom (see *Rájá Dídar Hosen* v. *Raní Zahúranissa*, II Moo. Ind. Ap. 441). Their Lordships do not think it necessary to give any opinion on the positive effect of Reg. XI, 1793, for they think that in the present case there is sufficient ground for the presumption that, after the settlement and this Regulation, the family were induced to regard the former state of things and the ancient tenures, whatever they were, at an end and to consider and treat the property as an ordinary estate held under the British Government; and their acts show that they did so consider and treat it"—XIX W. R. Civ. Rul. 10. As the family custom set up was found to be no longer in existence, it thus became unnecessary to decide the question of the effect of the Regulation upon a *zemindárí*. Should this exact point ever arise, it may perhaps be held that Reg. XI of 1793 was merely intended to do away with the custom referred to in the preamble, *viz. a custom originating under the Native administrations in considerations of financial convenience, and repugnant both to Hindú and Mahomadan laws;* and that it was not intended to interfere with any custom consonant with those laws and having an origin wholly distinct from that here indicated. The case of the Nadia ráj, which is another example of an impartible principality, was decided in 1792 before Reg. XI of 1793 was passed (Strange's Hindú Law, Vol. II p. 447). It was said in the judgment in this case, that by the 137th Article of the (old) Regulations it is directed that in cases of succession to *zemindáris* the Judge do ascertain whether they have been regulated by any general usage of the pargána where the disputed land is situated, or by any particular usage of the family suing; and do consider in his decision the weight due to the evidence on this head. The following cases may well be referred to in connection with what has just been said:—*Anand Lal Singh Deo* v. *Maharájá Dheraj Garúd Narain Deo Bahadúr*, V Moo. In. Ap. 82:[1] *Rawat Arjan Singh and Rawat Darjan Singh* v. *Rawat Ghansiam Singh*, V Moo. Ind. Ap. 169: *Kattama Nauchiar* v. *The Rájá of Shivagangah*, IX Moo. In. Ap. 539 ("The zemindárí is admitted to be in the nature of a principality, impartible and capable of enjoyment by only one member of the family at a time. But whatever suggestions of a special custom of descent may heretofore have been made (and there are traces of such in the proceedings), the rule of succession to it is now admitted to be that of the general Hindú law prevalent in that part of India (district of Madura, Madras Presidency), with such qualifications only as flow from the impartible character of the subject"): the cases connected with the Tipperah *Ráj*, *viz. Ram Gangá Deo* v. *Durga Maní Juba-Raj*, Ben. S. D. A. Rep. Vol. I p. 270: *Bír Chandra Juba-Raj* v. *Nilkrishna Takúr and others*, I W. R. Civ. Rul. 177, and *Nilkrishto Deb Barmano* v. *Bír*

[1] See also for this case, Ben. S. D. A. Rep. Vol. VI p. 282.

Chandra Takúr (in appeal before the Privy Council), III B. L. R. P. C. 19 ("Where a custom is proved to exist, it supersedes the general law, which, however, still regulates all beyond the custom"):—*Rani Bistoprea Patmahadea* v. *Basúdeb Dul Bewarti Patnaick*, II W. R. Civ. Rul. 232 (*Keonghur Raj* in Cuttack—Sons by wife of a lower caste rank after sons of same caste with Raja):—*Nityanand Mardiraj* v. *Srikaran Juggernath Bewartah Patnaick*, III W. R. Civ. Rul. 116 (*Attgurh Raj in Cuttack*—Brother to be preferred to son by a slave-girl):—*Rájá Nagendra Narain* v. *Raghunath Narain Deo*, Suth. Rep Jan.—July, 1864, 20 (Fúlkúsunah, Maunbhoom):—*Login and another* v. *Princess Victoria Gauramma of Coorg*, I Jur. O. S. 109:—*Lalla Indernath Sahí Deyú* v. *Takúr Kasinath Sahí and others*, Ben. S. D. A. Rep. for 1845, p. 17:—*Muharaj Kowar Basdeo Singh* v. *Maharaja Rudur Singh Bahadur*, Ben. S. D. A. Rep. for 1846, p. 22:—*Rani Haro Sundari Debya* v. *Raja Bissonath Singh*, Ben. S. D. A. Rep. for 1847, p. 339:—*Mútúvengada Chellasamy Manigar* v. *Túmbayasamy Manigar and others*, Mad. S. D. A. Rep. for 1849, p. 27:—and *Jagannadharow* v. *Kandarow*, Mad. S. D. A. Rep. for 1849, p. 112.

As to *family usage* unconnected with a *ráj* or principality, the following cases may be consulted:—*Sarendra Nath Rai* v. *Hiramani Barmani*, XII Moo. In. Ap. 91, and I B. L. R. P. C. 32. ("The prevalence in any part of India of a special course of descent in a family, differing from the ordinary course of descent in that place of the property of people of that class or race, stands on the footing of *usage or custom of the family*. It must have had a legal origin and have continuance (see *Abraham* v. *Abraham*),[1] and, whether the property be ancestral or self-acquired, the custom is capable of attaching and of being destroyed, equally as to both):—*Doe d. Jagomohan Rai* v. *Srimati Nimú Dasi*, Morton's Cases in Hindú Law by Montriou, p. 595. ("I have no hesitation in saying that we are bound to take notice of any special customs which may exist among the Hindús or which can be considered as the law of any particular part of the country, but then there must be an averment in the pleadings to show that this custom prevails and ought to be received as the law of that place, notwithstanding that it varies from the general laws of the Hindús. Mr. Ellis of the Madras Civil Service has shown that many customs and usages have been adopted from a former people by their Brahminical conquerors, and have become a part of the Hindú Code, although not in any degree founded on the Shastras. It may be said that, from the year 1756 to the year 1765 there was a double Government in this country, and during this period there was no registry of any Regulations. To those, who minutely study the history of that period, it must be evident that many usages were then introduced that are now recognized as Hindú customs; and, if any of the usages which were introduced at that period are relied upon as law, we are bound to take notice of them, should it be shown to us that they have become the written law of the land. But even if they have not become written law, and they are specially pleaded, we must still recognize them as a valid subsisting custom, on the presumption that this custom had its origin in some lawful authority, and there will be no more difficulty in doing this than there is in recognizing the local customs of England")[2]:—*Gopal Sindh Mân Data Mahapater* v. *Narattan Sindh and others*, Ben. S. D. A. Rep. for 1845, p. 195:—*Rasick Lal Bhanj and others* v. *Purush Mani*, Ben. S. D. A. Rep. for 1847, p. 205:—and *Samran Singh and others* v. *Khedan Singh and another*, Ben. S. D. A. Rep. for 1814, p. 116. As to the destruction of such a custom by non-user or discontinuance, the following observations were made in *Raja Raj Kissen Singh* v. *Ramjai Surma Mazumdar and others* (XIX W. R. Civ. Rul. 12). "Their Lordships cannot find any principle or authority for holding that in point of law

Family usage not connected with a Raj.

[1] IX Moo. In. Ap. 224.

[2] Per Grey, C.J.

a manner of descent of an ordinary estate, depending solely on family usage, may not be discontinued, so as to let in the ordinary law of succession. Such family usages are, in their nature, different from a territorial custom which is the *lex loci* binding all persons within the local limits within which it prevails. It is of the essence of family usages that they should be certain, invariable and continuous; and well-established discontinuance must be held to destroy them. This would be so when the discontinuance has arisen from accidental causes; and the effect cannot be less, when it has been intentionally brought about by the concurrent will of the family. It would lead to much confusion and abundant litigation, if the law attempted to revive and give effect to usages of this kind after they had been clearly abandoned, and the abandonment had been long acted upon."]

REGULATION I OF 1801.

A REGULATION *to explain and amend part of the Rules for collecting the Public Revenue contained in Regulations VII,* 1799, *and V,* 1800; *to expedite the Sale of Lands for Arrears of Revenue; to limit the Division of Property by such Sales; to explain and amend the Rules contained in Regulation XXV,* 1793 *(extended to Benares by Regulation XXVI,* 1795*) for the Division of Joint Estates and Allotment of the fixed Assessment thereupon; and to fix a Period for the operation of such part of Regulation VIII,* 1793, *as authorizes the Separation of certain Táluks from the Zemindáris to which they were attached at the time of the Decennial Settlement.*—PASSED *by the Governor-General in Council on the* 15*th January* 1801.

Section 10, Regulation I, 1793, to be strictly observed in all cases of public sale and private transfer or division.

VIII. Section 10, Regulation I, 1793 prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, *viz.* that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce, as the fixed assessment upon the whole estate may bear to its actual produce. This rule is to be strictly observed in all cases, whether of public sale or private transfer or of division between sharers, heirs or joint proprietors of whatever description; and it is hereby explained that by the term "actual produce" is to be understood the neat annual rent or other neat produce receivable by the proprietor after deducting from the gross rent or other gross produce the actual expense of collection and other usual charges of management, inclusive of *púlbandí* or the expense of embankments and similar incidental expenses, where such may be paid by the proprietor from his gross receipts, but exclusive of his *malikana* or proprietary income and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property or for the allotment of the public assess-

Explanation of the term "actual produce."

ment thereto in conformity to the prescribed rule. But the above Regulation further provides that the produce, to which the general rule of proportion is to be applied, shall be ascertained in the mode that is or may be prescribed by the Governor-General in Council; and the *patwárí* accounts furnished in pursuance of clause fourth of section 62, Regulation VIII, 1793 for the allotment of the public revenue agreeably to the principles laid down in Regulation I, 1793 having in many instances proved fallacious or unsatisfactory and in some instances not being procurable by the officers of Government—it is hereby enacted that, whenever the Collector or other public officer to whom the allotment of the assessment upon the portion of an estate may be committed shall have reason to suspect the accuracy of the village accounts produced by a *patwárí* in pursuance of clause fourth of section 62, Regulation VIII, 1793 or of any other Regulation, or if such account shall be found to have been fabricated or altered, or not to be the true accounts, under the process prescribed in clause eighth of the above section and Regulation, or if in any case the true village accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer under the powers vested in him by clause first of section 29, Regulation VII, 1799 or any other Regulation shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire *zemindárí, táluk* or other estate, with a specification of the *mahál* or *mahále* proposed to be separately assessed, he shall adjust the assessment upon such *mahál* or *mahále* under the general rule of proportion according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village accounts than may appear to him proper with a view to compare and check the other accounts. Provided however that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts, from which he may compute the neat produce of an estate to be divided and distinctly assessed, are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment, without evidence of which no distinct assessment is to be proposed by any Collector or approved by the Board of Revenue. Provided further that nothing in this Regulation shall be understood to authorize the Collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue. Moreover, nothing in this Regulation is meant to supersede the rules contained in section 62, Regulation VIII, 1793 respecting the village *patwáris;* and, with a view to render the same more effectual, clauses third, fourth, fifth, sixth, seventh and eighth of the above

Officer to whom the allotment of the assessment of a portion of an estate may be committed, how to proceed, should he suspect the accuracy of the *patwárí* accounts, or should they not be forthcoming.

Nothing in this Regulation to be understood to authorize the Collectors to fix the amount of the assessment on a portion of an estate, without the sanction of the Board of Revenue.

Rules in section 62, Regulation VIII, 1793 respecting the village *patwáris*, not superseded by this Regulation.

Clauses third, fourth, fifth, sixth, seventh and eighth of that section extended to all native agents employed by landholders in the management of their estates.

Any native agent convicted in a *Zillah* Court of altering accounts, or not delivering the true ones, to be dismissed from the service of the party employing him, and such party prohibited from employing him again under penalty.

section are hereby declared to be equally applicable to all other descriptions of native agents employed by the landholders in the management of their estates or in keeping any accounts of their lands, rents, receipts or disbursements. If any such agent shall be convicted in the *Zillah* Court of having collusively fabricated or altered the accounts delivered by him, or of having wilfully delivered any other than the true accounts, the offender, besides the punishment for perjury to which he will be liable under clause eight of the above section, shall be subject to dismission from the service of the party employing him by order of the Court, and such party shall be positively prohibited from again employing the offender, under whatever penalty the Court may think proper to fix upon consideration of the circumstances of the case.

[So much of this section as refers to the appointment of Patwárís was repealed by s. 2, Reg XII of 1817, so far as regards the Ceded and Conquered Provinces, the Provinces of Bahár and Benares, the District of Cuttack, the Pargána of Puttaspore and its dependencies.

This section was amended or supplemented by cl. 1, s. 10, Reg. V of 1810, which was repealed by s. 2, Reg. XIX of 1814, which substituted other provisions for those of Reg. V of 1810.

See Note to s. 62, Reg. VIII of 1793.]

Collectors authorized to cause the attendance of any landholder or other native whose attendance may be required.

Not to enforce personal attendance of a principal, provided that of an authorized agent will be sufficient.

Collectors subject to prosecution for damages for any infringement of this rule.

Regular summonses under the seal and official signature of the Collector to be issued to persons whose attendance may be required by him.

X. All purchasers of lands at the public sales are required to attend the Collector of the district wherein the lands may be situated either in person or by their representatives duly authorized, and to execute the usual *kabúliat* and *kistbandi* for the public revenue assessed upon the lands purchased by them. In cases of doubt as to the real purchaser the Collector is authorized to cause the personal attendance of the alleged purchaser at his *kachahrí*, if resident within his jurisdiction, or, if the purchaser be resident in any other *zillah*, the Collector of such *zillah* is authorized and required to cause the attendance of the purchaser at his *kachahrí*, on the application of the Collector in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter Collector or by the Board of Revenue, to whom a full report is to be made in such cases. It is further hereby declared, that the Collectors are generally empowered to cause the personal attendance of any landholder or other native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty under the Regulations or instructions of the Governor-General in Council or Board of Revenue. But no Collector shall cause the personal attendance of any landholder or other person, who may appoint an agent duly authorized to attend for him, if the attendance of the agent so appointed shall be sufficient for the purpose required. Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts; and, whenever they may have occasion to

exercise the power now declared to be vested in them, they are to issue regular summonses under their official seals and signatures, specifying the name, designation and residence of the party summoned and the purpose or purposes for which his attendance is required.

All *tálukdars* who may consider themselves entitled to have their *táluks* separated to apply to the Collector of the *zillah* within one year from the date of this Regulation, after which period no *táluk* will be considered separable, unless such application shall have been made.

XIV. The rules contained in Regulation VIII, 1793 for the separation of certain *talúkdárs* the actual proprietors of the lands composing their *táluks* from the *zemindáris* to which they were attached at the period of the Decennial Settlement having been construed to entitle *tálukdárs* of that description, who did not apply for separation at the time of the Decennial Settlement, to be separated on their application at any subsequent period; and it being necessary for the security of purchasers at the public sales that some period should be fixed for the operation of the above rules, to prevent their being at all times liable to deprivation of a part of their purchases—it is hereby required that all *tálukdárs*, who as proprietors of the lands composing their *táluks* may consider themselves entitled under section 5, Regulation VIII, 1793 or any other part of that Regulation to be separated from the *zemindáris* to which their *táluks* are attached, shall prefer a written application to the Collector of the *zillah* in which their *táluks* may be situated, for the separation thereof, within one year from the date of this Regulation, under penalty of forfeiting all title to separation under Regulation VIII, 1793, if they shall omit to apply as directed within the prescribed period, at the expiration of which the operation of the section above mentioned shall be considered extinct with regard to all *táluks* for which no claim to separation may have been then preferred; and such *táluks* shall thereafter be considered as dependent *talúks*, not entitled to be separated from the *zemindáris* to which they may be attached, though in other respects the rights of the *tálukdárs* are not meant to be in any degree affected by this Regulation. It is further hereby declared, that the rules regarding separable *táluks* contained in Regulation VIII, 1793 were never meant to be applied to any new *táluks* constituted since the period of the Decennial Settlement. By section 9, Regulation I, 1793 the *zemindárs* and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their respective estates; but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the *zillah*, that the fixed *jamá* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed, that the names of the proprietors of each share and the *jamá* assessed thereon may be entered upon the public Registers, and that separate engagements for the payment of the *jamá* assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but, until such notification and separation shall have

Rights of the *tálukdárs* in other respects not meant to be in any degree affected by this rule.

Rules contained in Regulation VIII, 1793, regarding separable *táluks*, declared not applicable to any *táluk* constituted since the Decennial Settlement.

been made, the whole of the estate is declared responsible to Government for the discharge of the fixed *jamá* assessed upon it in the same manner as if no transfer had taken place. This declaration is also repeated in section 28, Regulation XXV, 1793, which contains the specific rules established by Government for the division of estates paying revenue and the allotment of the *jamá* upon the several portions thereof. If therefore any *zemindár* shall have disposed of his proprietary rights in any portion of his *zemindárí* subsequently to the promulgation of the Regulation above mentioned, whether under the denomination of an independent *táluk* or otherwise, and the *tálukdár* or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon in the mode prescribed by the Regulations, such transfer as far as respects the rights of Government must be considered altogether invalid; and if the land so privately transferred but not separately assessed should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away. In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate. Provided however that nothing in this section be considered applicable to dependent *táluks* or other tenures dependent on the estate to which they are attached, and from which by their title-deeds or otherwise they are not entitled to be separated as a distinct estate. Section 6, Regulation XLIV, 1793 authorizes and confirms such tenures, subject to the restrictions contained in sections 2 and 5 of that Regulation, with the explanation of the latter in section 7, Regulation IV, 1794, and clause fifth of section 29, Regulation VII, 1799.

Transfer of the proprietary right in portions of estates since the date of Regulation XXV, 1793, without observance of the rules contained in that Regulation, and Regulation I. 1793, declared invalid as far as respects the rights of Government.

Nothing in this section to be applied to dependent *táluks*, or other dependent tenures.

[Regulation XXV of 1793 was repealed by Reg. XIX of 1814.

A zemindár sued certain Shikmí Tálukdárs in the Revenue Court for *rent*. The District Judge on appeal from the Deputy Collector held that these tálukdárs did not hold under the zemindár, but merely paid the share of the *revenue* allotted on their estates through him to Government, and therefore the zemindar's suit, as being for a share of the revenue, could only be brought in the Civil Court. On appeal to the High Court, the District Judge's decision was reversed, the High Court observing that if these tálukdárs had estates separate on the Collector's *Taujih*, (list of revenue-paying estates), and if they paid their share of the revenue through the zemindár merely as a matter of convenience, such a view might be correct: but, if these táluks were at the time of the Permanent Settlement comprised within the zemindár's estate, they would not be borne on the Collector's *Taujih*, and the tálukdárs would be subordinate to the zemindár, who, as his estate was liable to sale in default of payment of the *revenue*, could make the tálukdárs' estate liable for its share of that revenue in the shape of *rent*, and could take the same measures to enforce the payment of such rent against these Shikmí Tálukdárs as he could take against any other under-tenant.—*Chandrakant Chakravartti* v. *Mussamat Dakhi-aní Odea*, I Ind. Jur. N. S. 6.]

REGULATION XXXIII OF 1803.

A REGULATION *for preventing the Embezzlement of Public Money and withholding of Public Papers by the Native Officers of Government in the Provinces Ceded by the Nawáb Vizier to the Honorable the English East India Company.*—PASSED *by the Governor-General in Council on the 24th March* 1803.

It being necessary that the Collectors should possess the means of recovering the public dues and papers from *tehsildárs, sazawals, amíns* and other native officers withholding the public money or omitting to attend the Collectors to adjust their accounts, or retaining papers which came into their possession in their official capacity—the Governor-General in Council has passed the following rules.

Preamble.

II. *First.* The Collectors shall take security for the personal appearance of the *tehsildárs, sazawals, amíns, díwáns, sarrishtadars, munshís, mohurrirs* and all native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are or may be hereafter employed under them in their capacity of Collectors of the revenue. The surety is to bind himself to produce the officer for whom he may become security before the Collector whenever his attendance may be required, until he shall be discharged from the public service and shall have received a writing from the Collector signifying that he has no demand upon him on the part of Government either for money, papers or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer he will be responsible for all demands that the Collector may have upon him for public money, papers, or accounts and be liable to be proceeded against in every respect in the same manner as the officer himself, had he been forthcoming. When any such officer is removed or resigns, the Collector is to grant him an acquittal to the above effect after he shall have delivered up all public papers, accounts or money, that may have been committed to his charge. The Collectors may require such officers to give new sureties in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors are not responsible.

Collectors to take security for the personal appearance of the Native Officers herein specified. Conditions to which the surety is to be bound.

Second. The security which the *tehsildárs* appointed under Regulation XXVII, 1803 are required to give by clause seventh, section 2 of that Regulation, precludes the necessity of demanding any further security from *tehsildárs* of the above description under the present Regulation. The responsibility of

Tehsildars appointed under Regulation XXVII 1803, exempted from giving further security under

this Regulation.

the sureties of such *tehsildárs* is accordingly declared to extend to the several cases provided for in this Regulation.

Collectors how to proceed to recover public money or accounts in the possession of native officers.

III. If a Collector shall have a claim on the part of Government on any of the native officers described in the preceding section for a balance of accounts or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers by a writing under his official seal and signature and the signature of his *diwán* or other head native officer of his *daftar* for the time being specifying the amount of the money or the particular papers required and the date and place that may be fixed for the delivery of the money or papers. If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him and convey him to the jail of the Court of *adálat* of the *zillah*, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged or he shall have delivered up the papers. The Collector is authorized likewise to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him. If his property shall be in another *zillah*, he is to apply to the Collector of that *zillah*, who shall cause it to be attached. If the property shall be situated within any other jurisdiction, the Collector is to apply to the Judge of the *zillah* through the *vakíl* of Government to make application to the Judge of such jurisdiction to attach and deliver it into the charge of the nearest Collector. The Board of Revenue are empowered to order the property to be sold under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue. In the event of the death of any such officer the surety is to be exonerated from all responsibility and the Collector is to proceed against his heirs by a regular suit in the Court to which they may be amenable for any claims which Government may have upon the deceased. The suit is to be carried on by the *vakíl* of Government and at the public expense, and the rules in Regulation XXVII, 1803 regarding suits so carried on by the Collectors are to be held applicable to it.

Collectors how to proceed where officers abscond, or are not forthcoming.

IV. If any such native officer who may have retained public money or papers in his possession shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement or apprehend the offender and commit him to prison, if he be within the limits of the *zillah*; or, if he shall have taken refuge in any other *zillah* and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the *zillah* to request the Judge within whose jurisdiction the officer may be or reside to cause him to be apprehended. The Judge to whom the application may be made is to convey

the officer in safe custody to the jail of the *zillah* from which he may have absconded.

V. If a Collector shall have occasion to require any such officer to attend to adjust his accounts that the sum due from him may be ascertained, and he shall not attend upon being required by a writing to that effect under the official seal and signature of the Collector, to be fixed up in his *kachahrí* and at the place in the *zillah* at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety upon his engagement for the balance or papers in the same manner as if the accounts had been adjusted and the list of the papers prepared in the presence of the officer; or he may cause the officer to be apprehended by his own authority under section 3, if he be within the limits of the *zillah*, or, if he shall have taken up his abode in any other *zillah* or jurisdiction, by application to the Judge in the manner directed in section 4. If it should afterwards appear upon inquiry before the Court, that no part or a portion only of the sum demanded was due from him or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Collectors how to proceed, in case of the officer absconding without having adjusted his accounts, or omitting or refusing to attend for that purpose.

VI. If any such officer or his surety shall be confined on account of a claim for public money, and previously to the sale of his property, or, supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety and proceed to the trial of the suit; and, if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded and the property restored to the owner.

Officers or sureties confined for a demand of money, to be released in the case herein specified.

VII. If any such native officer or his surety shall be committed to custody by the Collector and shall not obtain his release in the mode specified in section 6, he shall nevertheless be at liberty whilst in confinement to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

Native officers, or their sureties, at liberty to sue the Collector whilst in confinement.

Collectors to appoint an authorized *vakil* of the Court to defend the suits herein specified.

VIII. The Collectors are to appoint one of the authorized *vakils* of the Court to defend any suits which may be instituted against them by any such native officers or their heirs or sureties under this Regulation; and the rules in Regulation XXVII, 1803 regarding suits instituted against the Collector for sums demanded or received by him on behalf of Government shall be applicable to such suits.

REGULATION X OF 1804.

A REGULATION *for declaring the powers of the Governor-General in Council to provide for the immediate Punishment of certain Offences against the State by the sentence of Courts Martial.*—PASSED *by the Governor-General in Council on the* 14*th December* 1804.

Preamble.

Whereas during wars in which the British Government has been engaged against certain of the Native Powers of India certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same and have abetted and aided the enemy and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government, and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor-General in Council should declare and establish martial law within any part of the territories aforesaid for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government, who may be taken in arms in open hostility to the said Government or in the actual commission of any overt act of rebellion against the authority of the same or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified—the following Regulation has been enacted by the Governor-General in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William from the date of its promulgation.

The Governor-General in Council in time of war or during the existence of rebellion empowered to

II. The Governor-General in Council is hereby declared to be empowered to suspend or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature within any *zillah*, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to

establish martial law therein for any period of time, while the British Government in India shall be engaged in war with any native or other power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid; and also to direct the immediate trial by Courts Martial of all persons owing allegiance to the British Government either in consequence of their having been born or of their being resident within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government, within any part of the said territories.

suspend, or to direct any public authority or officers to suspend, the functions of the ordinary Criminal Courts of Judicature in any district, city or other place within the British territories, and to establish martial law therein; and to direct the immediate trial by Courts Martial of all persons owing allegiance to the British Government, who shall offend against this Regulation.

[See Chapter VI, Ss. 121—130 of the Indian Penal Code.]

III. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid and consequently owing allegiance to the said Government, who in violation of the obligations of such allegiance shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court Martial during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death and shall suffer the same accordingly by being hung by the neck till he is dead. All persons who shall in such cases be adjudged by a Court Martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

Persons owing allegiance to the British Government, who shall be convicted by the sentence of a Court Martial of any of the crimes specified in the foregoing section, shall be liable to the immediate punishment of death; and to the forfeiture of their property and effects.

IV. The Governor-General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial at any time before the ordinary Courts of Judicature, instead of causing such persons to be tried by Courts Martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

The Governor-General in Council not precluded by this Regulation, from causing persons charged with any of the offences described in it to be brought to trial before the ordinary Courts of Justice, or before any special Court.

REGULATION XII OF 1805.

A REGULATION *for the Settlement and Collection of the Public Revenue in the Zillah of Cuttack, including the Pargánas of Puttespore, Kummardichour and Bograe at present included in the Zillah of Midnapore.*—PASSED *by the Vice-President in Council on the 5th of September* 1805.

Preamble.

Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the *Zillah* of Cuttack, and whereas the principles of justice and good faith require that the declarations made by the late Board of Commissioners to the several descriptions of *zemindárs, tálukdárs,* farmers and other holders of land should be formally recognized and confirmed, and whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collection of the public revenue in the province of Bengal with certain modifications and exceptions to the *Zillah* of Cuttack—the following rules have been enacted and are to be in force from the period of the promulgation of this Regulation.

[See *ante*, p. 116 Note.]

Arrangements adopted by the Commissioners for the settlement of the revenues for the years 1210 and 1211 Willaity, recapitulated and confirmed.

II. On taking possession of the country the Commissioners deemed it to be necessary to adopt the surest means of preserving uninjured the rights of the different landholders in the territory called Mogulbandí, being that part of the *Zillah* of Cuttack in which according to established usage, as in Bengal, the land itself is responsible for the payment of the public revenue, and in which every landholder holds his lands subject to the conditions of that usage. With this view the Commissioners issued a publication, signifying that all those persons who were in possession of the lands at the close of the Umlee year 1210 (corresponding with the Willaity year 1210) should continue in possession during the year 1211. The Commissioners also declared all demands for balances of former years to be cancelled, and they ordered the amount of the revenue payable by the respective *zemindárs* on account of the year 1211 Umlee (corresponding with the Willaity year 1211) to be ascertained and established according to the rate of the receipts of former years, granting a deduction of the amount of some oppressive *abwábs* and other exactions, and allowing for losses sustained by the *raiyats* from the failure of the first crop of that season and also for such part of the revenue of the current year as had been previously collected by the Maratta Government.

III. The arrangements adopted by the Commissioners with respect to the settlement of the revenue for the years 1210 and 1211 Umlee (corresponding

with the years 1210 and 1211 Willaity) together with the abatements from the *jamá* and the remissions of revenue granted by the Commissioners in those years are hereby confirmed.

IV. The following Proclamation relative to the settlement of the land revenue in the Mogulbandí territory of the *Zillah* of Cuttack was published on the 15th of September 1804 by the Board of Commissioners in virtue of the powers vested in them :—

Proclamation relative to the land revenue in the Mogulbandí territory issued by the Commissioners on the 15th September 1804.

"PROCLAMATION.

"CUTTACK, SEPTEMBER 15, 1804.

"*First.* Whereas it is the intention of the British Government to adopt, at the expiration of the present Umlee year, such a plan for the settlement of the landed revenue of the Province of Cuttack, as may be most conducive to the prosperity of the country and to the happiness of the inhabitants, and whereas it is of the utmost consequence to the success of the measure, as well as to the interest of the *zemindárs, tálukdárs* and all others concerned, that the nature and terms thereof should be made known as early as possible—notice is hereby given:

"*Second.* That at the commencement of the Umlee year 1212 the *sayar* of every denomination will be separated from the *mál* or land revenue, and a settlement for the latter only concluded in all practicable cases with the *zemindárs* or other actual proprietors of the soil (unless when disqualified by notoriously bad character or other good and sufficient cause) for a period of one year, it being understood that all *zemindárs* and other landholders and all *khandáits* shall for the present and during the pleasure of Government continue to perform the same duties of police for the prevention of robberies, murders and crimes of that nature, and for the preservation of peace and good order within their respective limits, and to be subject to the same responsibility as heretofore.

[*Khandáits* are a class of military landholders in Orissa, who resided in the hills in fortified dwellings and held their lands at a quit-rent on condition of protecting the lowlands from the incursions of the mountaineers.]

"*Third.* That at the expiration of the year 1212 another settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the satisfaction of Government) for three years, at a fixed equal annual *jamá*, which *jamá* shall be formed upon a just and moderate consideration of the receipts in the year 1212 and former years.

"*Fourth.* That at the expiration of the fourth year a new settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the satisfaction of Government) for a further period of

four years at a fixed equal annual *jamá* formed by adding to the annual rent of the preceding lease of three years two-thirds of the net increase of revenue during any one year of that period.

"*Fifth.* That at the end of the lease for four years (which will be in the Umlee year 1219) a further settlement for the period of three years will be concluded with the persons in possession (if willing to engage and they shall have conducted themselves to the satisfaction of Government) at a *jamá* to be formed by adding to the annual rent of the preceding lease of four years three-fourths of the net increase of revenue during any one year of that period.

"*Sixth.* That at the end of these eleven years, which will be in 1222, a Permanent Settlement will be concluded with the same persons (if willing to engage and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward) for such lands as may be in a sufficiently improved state of cultivation to warrant the measure on such terms as Government shall deem fair and equitable.

"*Seventh.* The *nankár* lands of those *zemindárs* who may decline entering into engagements for their estates, as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district; but such *zemindárs* shall for the present continue to receive in money an equivalent for what they have hitherto received as *nankár* from the Maratta Government.

[As to *nankár*, see *ante*, page 51 note, and S. 5, Reg. VII of 1822.]

"*Eighth.* That, with respect to such *zemindáris* as may have been mortgaged or transferred in security and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land as the temporary representative of the proprietor, leaving the latter to obtain possession either by a private settlement of accounts or by a judicial process.

"*Ninth.* That the settlement of such small *táluks* or *zemindáris* as may be only nominally included in large *zemindáris*, in the *sádr jamá* of which their *jamá* may be comprehended, will be made separately and distinctly with the proprietors of such small estates, and they will be allowed to pay their revenue directly to the Collector or the person appointed by him to receive it; and in all cases where the revenue of a village has for upwards of five years past been paid direct to Government by the hereditary *mokaddam*, the settlement for such village will be made with the hereditary *mokaddam*.

"*Tenth.* That, with respect to such lands as are without proprietors or the proprietors of which decline entering into engagements, a village settlement shall

be made and a preference given to the hereditary *mokaddams* of those villages to which the lands belong, but no settlement is to be made with a *mokaddam* for lands not included in his *mokaddamí*.

"*Eleventh.* That, in the event of neither proprietors, *mokaddams* nor other respectable *raiyats* being forthcoming, such lands as are in that predicament will be held *khas*.

"*Twelfth.* That all authorized *abwábs* are to be consolidated and incorporated with the land-rent and expressed in the *pattas* and *kabúliyats*, that nothing but what is there expressed shall be collected from the *raiyats* or under-renters.

"*Thirteenth.* That all persons who may enter into engagements for the settlement must bind themselves by written obligations to grant *pattas* of the above description to their *raiyats* and under-renters.

"*Fourteenth.* That all persons who may enter into engagements with Government must previously give security for the fulfilment thereof in an amount equal to the largest *kist* of their annual *jamá*.

"*Fifteenth.* Several of the tributary *rájás* have been accustomed to furnish guards and be responsible for all robberies committed within the Mogulbandí lands bordering on their respective territories, and for which they have formerly been allowed to levy a tax called chaupaní or *mágan-khandáití*. Those *rájás* are to continue to furnish the usual guards and be subject to the same responsibility as heretofore, but, instead of being permitted to levy the above-mentioned tax, the said *rájás* will until further arrangements can be made receive an equivalent in money from Government.

"*Sixteenth.* Such being the provisions made for the preservation of the rights of the *zemindárs*, *raiyats*, &c. &c. and for the effectual prevention of undue exaction, there cannot be a doubt that confidence in the protection of Government will be established amongst all ranks of people, that cultivation will be extended, and that the general prosperity of this province will rapidly increase."

Rules, orders and declarations contained in the above Proclamation confirmed with certain qualifications. Explanation of the rule to be adopted in adding to the *jamá* a portion of the increased produce in concluding the future settlements.

V. The rules, orders and declarations contained in the above Proclamation are hereby confirmed with the following qualifications and explanations. With the view of obviating any misconstruction of the rule to be adopted in adding to the *jamá* a portion of the increased produce in concluding the settlements to be formed at the commencement of the Willaity years 1216 and 1220 (corresponding with the years 1216 and 1220 Umlee), it is hereby declared, in explanation of the third and fourth clauses of the Proclamation issued on the 15th of September 1804, that the amount of the *nankár*, to which *zemindárs* are or may be entitled under their original engagements for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at

the time of the expiration of each lease, and that the actual increase of public revenue to be assessed agreeably to the clauses above specified shall be calculated on the amount of the difference between the actual net produce after such deduction, and the annual amount of the former lease. It is at the same time provided that the portion of the increased produce, relinquished to the *zemindárs* under the abovementioned clauses on the formation of the successive settlements, shall be considered to preclude all claim on the part of the *zemindárs* to any further proportion of such increased produce on account of *nankár* in addition to the deduction originally made and continued to them on this account.

Zemindárs and other actual proprietors, whose lands have been held *khas*, shall be restored to the management of their lands on their agreeing to pay the assessment required in conformity to the rules for the settlement of the land revenue.

VI. The lands of some *zemindárs*, independent *tálukdárs* and other actual proprietors of lands having been held *khas* or let in farm in consequence of their refusing to pay the assessment required from them under the Proclamation inserted in section 3 of this Regulation, the Governor-General in Council hereby notifies to the *zemindárs*, independent *tálukdárs* and other actual proprietors of land whose lands are held *khas*, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which shall be required from them in conformity to the prescribed rules for the settlement of the land revenue.

The expiration of the year 1215 Willaity fixed as the period for completing the adjustment and delivery of *pattas*.

VII. In explanation of the provision contained in the 13th article of the above Proclamation, it is hereby declared that, as a sufficient period of time will have elapsed during the first triennial settlement of the land revenue in the *Zillah* of Cuttack (which will expire with the Willaity year 1215) to enable the proprietors and farmers of land to complete the adjustment and delivery of *pattas* for the whole of their lands in the mode prescribed, the expiration of the Willaity year 1215 is the period fixed for the general delivery of *pattas*.

This Regulation shall not authorize the resumption of lands assigned as endowments of the temple of *Jagannath*, or similar purposes, provided however that the fixed quit-rents of such lands under the grants shall be paid as usual.

VIII. Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rájá of Berar or from any *zemindár*, *tálukdár* or any actual proprietor of land in the *Zillah* of Cuttack as endowments of the temple of *Jagannath*, or of *maths* in the vicinity of that temple or for similar purposes, provided however that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.

Rents of lands assigned for the maintenance of certain *sardar paiks*,

IX. Nothing contained in the foregoing Proclamation shall be construed to authorize the resumption of the rents of any lands at present appropriated to the maintenance of certain *sardar paiks* and other *paiks* for the support of the

police, provided however that any fixed quit-rent, which may be at present payable by such *sardar* and other *paiks* conformably to the tenor of their grants, shall continue to be paid agreeably to established usage.

&c. not liable to resumption; nevertheless the fixed quit-rents to be paid as usual.

X. The Collectors of the revenue in the *Zillah* of Cuttack shall be guided in preparing the different Registers of landed property in that *zillah* by the Regulations in force for that purpose in the Province of Bengal, provided however that the first Periodical Register to be prepared shall commence with the Willaity year 1216 and shall exhibit the estates and the required particulars respecting them as they may stand at the commencement of that year. The Periodical Register to be formed at the commencement of the Willaity year 1211 and every succeeding five years shall exhibit the estates as they may stand at that and each subsequent period.

Collectors to be guided by the Regulations in force in Bengal in preparing the different Registers of landed property, with a provision that the first Periodical Register to be prepared shall commence with the Willaity year 1216.

XI. The Register to be first formed and to commence with the Willaity year 1216 shall be numbered *two*. The Register to be next formed commencing with the Willaity year 1211 shall be numbered *one*. The Register to be next formed at the commencement of the Willaity year 1221 shall be numbered *three*, and every subsequent Periodical Register in the order in which it may be formed.

How the Registers are to be numbered.

XVII. The following rules containing modifications of the provisions contained in Regulation XIX, 1793 respecting lands exempt from the payment of revenue under grants not being *Badshahí* or Royal shall be in force in the *Zillah* of Cuttack.

XVIII. *First.* All grants for holding land exempt from the payment of revenue made previously to the 14th day of October 1791 corresponding with the 30th Assin 1198 Bengal era, the 3rd Kartick 1199 Fussily, the 30th Assin 1199 Willaity, the 3rd Kartick 1848 Sumbut, and the 15th Suffer 1207 Higerí, by whatever authority and whether by a writing or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted and held it exempt from the payment of revenue previously to the date abovementioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government. If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Modifications of Regulation XIX, 1793 respecting rent-free lands not being held under *Badshahí* or Royal grants.

Grants of alienated land made previous to the 14th October 1791 declared valid, provided the grantee obtained possession before that date, and has since held possession without paying revenue.

Grants made before the above date of no validity, if possession was not obtained prior thereto, or if the lands have been since subjected to the payment of revenue.

Grants made subsequent to the 14th October 1791, by whatever authority, which may have been confirmed or admitted by the existing Government prior to the 14th October 1803, declared valid, provided the grantee obtained possession previous to that date, and held the lands without being subjected to the payment of revenue until the latter date.

Second. All grants for holding land exempt from the payment of revenue which may have been made subsequently to the 14th day of October 1791 and prior to the 14th day of October 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October 1803 by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted and held the same exempt from the payment of revenue previously to the 14th of October 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government. If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the 14th day of October 1803, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government—the grant shall not be deemed valid.

Such grants of no validity, if possession was not obtained, or if the lands were subjected to the payment of revenue prior to the 14th October 1803.

Courts to refer to the Governor-General in Council in the event of their entertaining doubts of the authority of any officer of Government who may have subjected exempted lands granted before the 14th October 1803 to the payment of revenue.

Third. In the event of a claim being preferred by any person to hold land exempt from the payment of revenue under a grant made previously to the 14th day of October 1791 or under a grant made subsequent to that date but prior to the 14th day of October 1803 and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to subject the land to the payment of revenue—the Court shall suspend its judgment, and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the Governor-General in Council, the Court is to decide accordingly. In like manner the Governor in Council reserves to himself the power of determining in cases of doubt whether any officer of the Rájá of Berar, who may have made, confirmed or admitted grants of land exempt from the payment of

revenue in the name or on the part of the Rájá, was competent to exercise such authority. The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor-General in Council.

Fourth. But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government exempt from the payment of revenue under any grant made previously to the 14th day of October 1803, the writing for which may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in writing, or the writing not to be forthcoming or no writing to have been executed, where the grant from the nature and denomination of it shall be proved to be a life tenure only according to the ancient usage of the country.

Rules respecting grants for life only.

Fifth. Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the writing or the writing not to be forthcoming or no writing to have been executed, where from the nature and denomination of the grant it shall be proved to be a life tenure only according to the ancient usages of the country.—Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved to the satisfaction of the Court that the grant from the nature and denomination of it is hereditary according to the ancient usages of the country. But, upon the demise of the present possessor of any such grant which may be adjudged not hereditary under this clause, if it shall appear that one or more successions in virtue of whatever right shall have taken place before the 14th day of October 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor-General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to him proper.

Power reserved to the Governor-General in Council of determining whether life grants, to which one or more successions may have taken place prior to the 14th October 1803, shall be subjected to the payment of revenue or not on the death of the present possessor.

Sixth. The present possessors of lands held exempt from the payment of revenue under all life grants declared by the preceding clause not to be hereditary are prohibited from selling or otherwise transferring them or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void.

The present possessors of such life grants prohibited from transferring them, or mortgaging the revenue beyond their own lives.

Exempted lands not exceeding ten *bighás* held under grants made prior to the 14th October 1803, and appropriated to the endowment of temples or other such purposes, not to be liable to assessment. Decision respecting lands so held, exceeding ten *bighás*, reserved to the Governor-General in Council.

Seventh. Provided however that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land not exceeding ten *bighás* held exempt from the payment of revenue under a grant made prior to the 14th day of October 1803, and *bonâ fide* appropriated as an endowment for temples or for other religious or charitable purposes. Moreover if any land so held and appropriated exceeding ten *bighás* shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same with the circumstances of the case for the consideration of the Governor-General in Council.

Courts not to take cognizance of claims, to hold exempted lands that have paid revenue for twelve years, prior to the 14th October 1803, or to the date of preferring the claim, unless the claimant can show sufficient cause for not sooner preferring it.

Eighth. The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th of October 1803; nor of any claim to hold land exempt from the payment of revenue which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

[See Ss. 2 and 3, Reg. XIV of 1825.]

All grants of lands exempt from revenue, made since the 14th October 1803, and not confirmed by the Governor-General in Council or an officer duly authorized, declared invalid.

XIX. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October 1803 corresponding with the 29th Assin 1210 Bengal era, the 14th Kartick 1211 Fussily, the 29th Assin 1211 Willaity, the 14th Kartick 1860 Sumbut, and the 27th Jumadí-us-Saní 1218 Higerí, by any other authority than that of the British Government and which may not have been confirmed by the Governor-General in Council or by an officer empowered to confirm them, are declared invalid.

Courts how to proceed in the event of their doubting the authority of any officer to confirm a grant.

XX. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the Governor-General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the Governor-General in Council, shall decide accordingly.

XXI. The following rule shall be in force in the Province of Cuttack for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation.

Rule for assessing lands resumed under the three foregoing sections.

XXII. *First.* The revenue assessable on all lands, which shall be adjudged or become liable to the payment of revenue under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

The revenue assessed on such lands declared to belong to Government.

Second. The revenue payable to Government shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government. If the proprietor shall not agree to the assessment so fixed, a report of his objections and of the circumstances of the case shall be made by the Collector of the district through the Board of Revenue for the information of the Governor-General in Council, who will determine on the amount of the assessment; and, if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held *khas* under the rules contained in the existing Regulations.

Assessment to be regulated by the rules for the settlement of the lands paying revenue.

Rules in case of the proprietor refusing to agree to such assessment

XXIII. The period of one year, reckoning from the expiration of the current Willaity year 1212, shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors shall prepare the first Periodical Register of lands held exempt from the payment of revenue; and the second, third and each successive Register at the expiration of every five years.

Periods fixed for registering grants and preparing the Periodical Registers.

XXIV. All the provisions contained in Regulation XIX, 1793 regarding lands exempt from the payment of revenue to Government under grants not being *badshahí* or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the *Zillah* of Cuttack.

All the provisions contained in Regulation XIX, 1793 not superseded by this Regulation, declared to be in force in Cuttack.

[So much of this section as authorizes and requires proprietors and farmers of estates and dependent táluks to collect the rents of land granted exempt from the payment of revenue subsequent to the dates specified therein, to dispossess the grantees and re-annex the land to the estate or táluk in which it may be situate, was repealed by S. 28, Act X of 1859. See Note at end of Reg. XIX of 1793.]

XXV. The following rules containing modifications of the provisions contained in Regulation XXXVII, 1793 respecting lands held exempt from the payment of revenue under *badshahí* or royal grants shall be in force in the *Zillah* of Cuttack, and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules shall be considered to be in force in the said *zillah*.

All the provisions of Regulation XXXVII, 1793 not superseded or modified by this Regulation, declared to be in force in Cuttack.

Description of what the term '*badshahí* grant' is meant to include.

XXVI. *First.* The term '*badshahí* grant' shall be construed to extend to all grants made by the Supreme Power for the time being, and consequently to include grants of the following descriptions—*First,* Royal Grants properly so called; *secondly,* grants made by the Souba of Orissa; and *thirdly,* grants made by the Rájás of Berar.

Badshahí grants made previously to the 14th October 1803 declared valid, provided the grantee obtained possession before that date and has since held possession. Such grants not deemed valid, if the grantee did not obtain possession, or, having obtained possession, the grant was resumed prior to the above date.

Second. Altamgha, jagír, aymá, madadmásh or other *badshahí* grants for holding land exempt from the payment of revenue, made previous to the 14th October 1803, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October 1803, or that he did obtain possession of it prior to that date but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Courts to refer to the Governor-General in Council, in the event of their doubting the authority of any officer of Government, who may have resumed such grants.

Third. In the event however of a claim being preferred by any person to hold land exempt from the payment of revenue under a *badshahí* grant made previous to the 14th October 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor-General in Council to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the Governor-General in Council, the Court is to act accordingly.

Rules respecting grants for life only.

Fourth. But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person not being the original grantee entitled to hold land paying revenue to Government exempt from the payment of revenue under a *jagír* or other grant made previous to the 14th October 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant or the

grant not to be forthcoming, where the grant from the nature and denomination of it shall be proved to be a life tenure only according to the ancient usages of the country.

Fifth. Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a *jagír* or other *badshahí* life grant made previous to the 14th October 1803 to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life tenure only according to the ancient usages of the country.

The present possessors of such life grants prohibited from transferring or mortgaging the revenue of them beyond their own lives.

Sixth. The present possessors of lands now exempt from the payment of revenue under such *jagír* or other life grants, made previous to the 14th October 1803 and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made are declared illegal and void.

All grants made since 14th October 1803, and not confirmed by Government or an officer duly authorized, declared invalid.

XXVII. All *badshahí* grants for holding land exempt from the payment of revenue which may have been made since the 14th October 1803 by any other authority than that of the British Government, and which may not have been confirmed by Government or by an officer empowered to confirm them, are declared invalid.

Courts how to proceed in the event of their entertaining doubts of the authority of the officer to confirm the grant.

XXVIII. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the Governor-General in Council to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the Governor-General in Council, shall decide accordingly.

Periods fixed for registering grants and preparing the Periodical Registers.

XXIX. The period of one year, reckoning from the expiration of the Willaity year 1212, shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors shall prepare the first Periodical Register of lands held exempt from the payment of revenue under *badshahí* tenures; and the second, third and each successive Register at the expiration of every five years.

Rules contained in Regulation XXIV, 1793 for deciding on claims to pensions, &c. to be in force in Cuttack with modifications.

XXX. The rules contained in Regulation XXIV, 1793 for deciding on the claims of persons to the continuance of pensions and allowances granted for religious purposes, shall be considered to be in force in the *Zillah* of Cuttack in common with other Regulations extended to that *zillah* by section 36 of this Regulation; provided however that in cases in which persons may have obtained pensions from the Government of Berar under grants made previous to the 14th of October 1803, such pensions shall be continued to the present incumbents and will either descend to their heirs and successors or will revert to Government on the decease of the present incumbents, as shall appear to the Governor-General in Council, on a consideration of the tenor of the grant and all the circumstances of the case, to be proper under section 4, Regulation XXIV, 1793; provided likewise that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th of October 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the Governor-General in Council to exist for continuing the said pensions to their heirs and successors; provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Jagannâth, the charitable donation to the officers of certain Hindú temples called Anukshetra, and the allowance granted for the support of the Hindú temple at Cuttack, called Setaram Thakúr Barí.

The collection of *sayar* and other internal duties abolished with certain exceptions and the rules in Regulation XXVII, 1793 relating to *chalantá, rahdári, &c.* duties declared to be in force in Cuttack.

Declaration of the intention of Government to make adequate compensations to persons deprived of authorized advantages by such abolition.

XXXI. The settlement of the land revenue of the *Zillah* of Cuttack having been ordered to be made with the exclusion of all *sayar* duties, all duties of that description are hereby abolished in the said *zillah* with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs, and the rules contained in Regulation XXVI, 1793 for preventing the collection of any *chalantá, rahdári* or other duties by the *zemindárs, tálukdárs,* farmers and other holders of land in the Province of Bengal are hereby declared to be in force in the *Zillah* of Cuttack. It is also hereby declared that in conformity to the spirit and principle of clause tenth of section 2 and the rules contained in section 6, Regulation XXVII, 1793, it is the intention of Government to grant adequate compensations to all persons who derived advantages from the late *sayar* duties under competent authority from the Government of Berar or in conformity to long and established usage.

Sanads granted by the Commissioners to

XXXIII. The Commissioners having granted *sanads* to certain *zemindárs* entitling them to hold their estates at a fixed *jamá* in perpetuity, those

sanads are hereby confirmed. The following is a list of the names of the *zemindárs* to whom this provision is to be considered applicable:—

certain *Zemindárs* to hold their estates at a fixed *jamá* in perpetuity confirmed. List of such *Zemindárs*.

Zemindár of Killah Durpum,
Ditto of ditto Súkindah,
Ditto of ditto Muddúpore.

XXXIV. The Commissioners having likewise granted a *sánad* to Futtah Mahomed, *jagírdár* of Malúd, entitling him and his heirs for ever in consideration of certain services performed towards the British Government to hold his lands exempt from assessment, such *sanad* is hereby confirmed.

Sanad granted by the Commissioners to Futtah Mahomed, *jagírdár* of Malúd, to hold his lands rent-free in perpetuity, confirmed.

XXXV. *First.* The late Board of Commissioners having concluded a settlement of the land revenue with certain *zemindárs*, whose estates are situated chiefly in the hills and *jangals* for the payment of a fixed annual quit rent in perpetuity, those engagements are hereby confirmed, and no alteration shall at any time be made in the amount of the revenue payable under the engagements in question to Government.

Settlement concluded by the Commissioners with certain hill and jangal *Zemindárs* for payment of a fixed annual quit rent in perpetuity, confirmed.

Second. The following is a list of the *maháls* to which the provision in the preceding clause is applicable:—

List of the *maháls* to which the foregoing applies.

Killah Aull,	Killah Puttra,	Killah Miritchpore,
Ditto Kojang,	Ditto Humishpore,	Ditto Bishenpore.

Third. The *zemindáris* of Kordah and Kunka being *maháls* of the description of those specified in the preceding clause, a settlement shall be concluded as soon as circumstances may admit for the revenue of those *maháls* on the principle on which a settlement has been concluded with the *zemindár* of the *maháls* specified in the preceding clause.

A settlement shall be concluded on the principle stated in the two foregoing clauses with the *Zemindárs* of Kordah and Kunka.

XXXVI. All Regulations relating directly or indirectly to the settlement and collection of the public revenue or the conduct of the officers employed in the performance of that duty whether European or native in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to and declared to be in force in the *Zillah* of Cuttack; provided however that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the *Zillah* of Cuttack, in which the succession to the entire estate devolves according to established usage to a single heir. In cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation X, 1800. Provided also that nothing herein contained shall be construed to imply that any parts of the said Regulations are for the present to be considered to be in force in certain *jangal* or hill *zemindáris* occupied by

All Regulations relating to the settlement or collection of the revenue or the officers employed therein, now in force in Bengal and not superseded by the foregoing rules, declared to be in force in Cuttack.

Exception as to the division of estates.

Exception as to the *jangal* or hill *Zemindáris* to which those

Regulations are not for the present extended. List of such *Zemindáris.*

rude and uncivilized race of people, with the proprietors of which estates engagements were formed by the late Board of Commissioners for the payment of a certain fixed quit rent or tribute to Government. The following is a list of the names of the *maháls* to which this exemption from the operation of the general Regulations is to be considered applicable :—

Killah Nílgerí,	Killah Toalcherrí,	Killah Rampore,
Ditto Bankey,	Ditto Attghurh,	Ditto Hindole,
Ditto Júrmú,	Ditto Kunjur,	Ditto Tígercah,
Ditto Nirsingpore,	Ditto Kindeapara,	Ditto Burrumboh,
Ditto Augole,	Ditto Neahgurh,	Ditto Deckenaul.

Similar exception from the operation of the general Regulations considered applicable to the territory of Mohurbunge.

XXXVII. The foregoing exemption from the operation of the general Regulations shall likewise for the present be considered to be applicable to the lands known by the appellation of the territory of Mohurbunge; but it shall be the duty of the Collector of the *zillah* to conclude a settlement with the proprietor of that estate for the payment of a fixed annual quit rent on the principles on which a settlement has been concluded with the other hill or *jangal zemindárs* specified in the preceding section.

REGULATION XIII OF 1805.

A REGULATION *for the Maintenance of the Peace, and for the support and administration of the Police in the Zillah of Cuttack, and for amending certain provisions contained in Regulation IV,* 1804.—PASSED *by the Vice-President in Council on the 5th of September* 1805.

Preamble.

Whereas it is essential to the security of the persons and property of the inhabitants of the districts and lands included in the Province of Cuttack and its dependencies, that a regular and efficient system of police should be maintained in the said province, and whereas it was the practice in the said province when under the Maratta Government to vest the immediate maintenance of the peace in certain *sardar paiks,* also called *khandaits,* aided by inferior *paiks* under the orders and control of the said *sardars,* for whose support lands were assigned under the orders and authority of the said Government; and whereas the general control of the said *sardars* and other *paiks* was vested at the time of conquest of the Province of Cuttack by the British arms in the *zemindárs, tálukdárs,* farmers and other holders of land within the limits of their respective estates and farms, excepting in cases in which they had been specifically deprived of the charge of the police by the said Government either for misconduct or for inability to perform the duty entrusted to them or for other substantial reasons;

and whereas in such cases it was usual to vest the general charge of the police within certain established limits in the said *sardar paiks* or *khandaits* abovementioned; and whereas experience has demonstrated that the system of police at present established in the Province of Cuttack is well calculated for the prevention of crimes, and for the maintenance of the general tranquillity of the country—the following rules have been enacted to be immediately in force in the Province of Cuttack including the *Pargánas* of Puttespore, Kummardichour and Bograe.

II. The districts and lands comprised in the Province of Cuttack, with the exception of the *Pargána* of Puttespore, Kummardichour and Bograe, shall be denominated the *Zillah* of Cuttack.

The districts and lands comprised in the Province of Cuttack with certain exceptions shall be formed into one *zillah* to be denominated the *zillah* of Cuttack.

III. The abovementioned *Pargánas* of Puttespore, Kummardichour and Bograe shall be included as at present in the *Zillah* of Midnapore, subject however to all the Laws and Regulations which have been or may be enacted for the internal government of the *Zillah* of Cuttack; provided nevertheless that it shall at any time be lawful for the Governor-General in Council by an order in Council to make any alteration with respect to the boundaries of the said *Zillahs* of Midnapore and Cuttack which may appear to be expedient.

Certain *pargánas* shall be included in the *Zillah* of Midnapore, but subject to the Regulations enacted for Cuttack.

Governor-General in Council may alter the boundaries as may appear expedient.

IV. *First.* The following rules shall be observed in the appointment of *daroghas* for the maintenance of the police in the *Zillah* of Cuttack, and in the abovementioned *Pargánas* of Puttespore, Kummardichour and Bograe.

Rules for the appointment of *daroghas* for the maintenance of the police.

Second. In cases in which the *zemindárs, tálukdárs* and other landholders have not been formerly divested of the charge of the police within the limits of their respective estates for misconduct or any other reason either by the late Maratta Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such *zemindárs, tálukdárs* and other landholders shall continue, under the responsibility stated in section 6, Regulation IV, 1804, in charge of the police according to established usage within their respective estates, that is, the principal *zemindárs, tálukdárs* and other landholders being proprietors of large estates shall be constituted *daroghas* of police within the limits of their respective possessions, and the inferior *zemindárs, tálukdárs* and other landholders being proprietors of petty estates shall be considered to be subordinate officers of police, subject to the abovementioned responsibility under

Such of the *zemindárs* as have not been formally divested of the charge, shall continue to act as police officers in their respective estates, under the responsibility stated in section 6, Regulation IV, 1804.

Proprietors of large estates shall be constituted *daroghas*. Proprietors of petty estates to be subordinate officers under *daroghas* to be selected and appointed.

the immediate authority of *daroghas* who shall be selected and appointed for the maintenance of the police in estates or *mahâls* of the latter description.

[Reg. IV. of 1804 has been repealed by Act VIII of 1868, save as provided in S. 1, *id.*]

In cases in which any *zemindárs*, &c. have been divested of the police, *khandaits* shall be nominated to the charge under the control of *daroghas*.

Third. In cases in which any of the *zemindárs*, *tálukdárs* and other landholders have been divested of the charge of the police (as above noticed) within the limits of their respective estates, one, two or more *khandaits*, or *sardar paiks* according to the extent of such estates, shall in conformity to established usage be vested with the immediate maintenance of the peace, the apprehension of, public offenders and other duties of that description within the limits of the said estates, subject nevertheless to the control of *daroghas*, who shall be appointed for the superintendence of the police and the general control of the conduct of the said *khandaits* and all inferior officers of police within the limits of the authority of the said *daroghas* respectively.

Daroghas to receive such salaries as Government may fix.

Fourth. The *daroghas* who may be appointed under clauses second and third of this section shall receive such salaries as the Governor-General in Council may think proper to fix for their support on a consideration of the labour and responsibility of the offices held by them.

Lands assigned by the late Government for the maintenance of the *sardar* and other *paiks* shall be continued to them.

Such officers subject to the authority of the *daroghas*.

V. Certain lands having been assigned by the authority of the late Government for the maintenance of the said *sardar paiks* and inferior *paiks* under the control of such *sardars* for the support of the general police of the country, those lands shall be continued to the said *sardar* and other *paiks* for the purposes to which they have been hitherto appropriated. It is to be understood however that all officers of that description shall be considered subject to the authority of the *daroghas* of police whether *zemindárs* or others within their respective limits, and shall be bound to conform to all legal orders which may be issued to them by such *daroghas* conformably to the powers with which the *daroghas* may be invested. It is further to be understood that any *sardar* or other *paik* will be liable to be dispossessed of his lands for any disobedience of orders, neglect of duty, undue violence or other misconduct—provided however that whenever a Magistrate shall be of opinion that any *khandait* or *sardar paik* ought to be dismissed from his office, or whenever the place of such officer shall become vacant from death or any other cause, the Magistrate shall report the circumstances of the case to the Nizámat Adálat, who will pass such orders on the subject as shall appear to them to be proper under the general powers vested in them by Regulation V, 1804—provided likewise, that whenever any vacancy

Cases in which they may be dispossessed of their lands, and how the Magistrate is to proceed in such cases, or in cases of vacancy of such offices,

shall occur among the inferior *paiks* either from dismissal, death or otherwise, the places of such *paiks* shall be supplied by the *sardar paik*, on declaring himself to the Magistrate responsible for the conduct of the person recommended by him.

VI. It shall be the duty of the *daroghas* of police, whether *zemindárs* or others, under the guidance and instructions of the Magistrates to form a complete register of the *sardar* and other *paiks* within the limits of the authority of the said *daroghas* respectively.

Daroghas to form a complete register of the *sardar* and other *paiks*.

VII. It shall further be the duty of the *daroghas* of police to ascertain and fix under the orders of the Magistrates the limits of the local authority of the *khandáits* or *sardar paiks*, and of the inferior officers of police attached to the said *sardars*, so that every part of the Province of Cuttack whether consisting of lands paying revenue to Government or of lands exempt from the payment of revenue may receive the protection of the subordinate officers of police under the directions of the *daroghas* and the general control of the Magistrates.

The *daroghas* shall fix under the orders of the Magistrates the limits of the local authority of the *khandáits* and other inferior officers of police.

VIII. Nothing contained in this Regulation shall be construed to exempt the *zemindárs*, *tálukdárs*, farmers and other holders of land, although they be not formally constituted officers of police, from the duty of affording every assistance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of police.

This Regulation not to exempt the *zemindárs*, &c. from affording every assistance in their power for the prevention of breaches of the peace, &c.

IX. Any *zemindár*, *tálukdár* or holder of land exempt from revenue, who may be suspected of conniving at any robbery or other public offence, will be liable to be prosecuted before the Criminal Courts of the country and punished on conviction under the general Laws and Regulations of the country.

Zemindárs, &c. suspected of conniving at robbery or other offences, liable to prosecution before the Criminal Courts.

X. It shall be the duty of the Collectors of Cuttack and Midnapore to form a complete register of the lands assigned for the support of the *sardar* and other *paiks*, specifying the quit-rent payable to the *zemindárs*, *tálukdárs* and other landholders (if according to established usage the lands have been hitherto subject to the payment of such quit-rent), and to transmit a copy of the register required to the Board of Revenue to be deposited among the records of that Board.

Collectors of Cuttack and Midnapore to form a complete register of the lands assigned for the *sardar* and other *paiks*, and to transmit a copy to the Board of Revenue.

XI. The foregoing rules regarding the *sardar* and other *paiks* and the lands assigned for their support are not to be considered applicable to certain *dosâds* or village watchmen, entertained by the *zemindárs*, *tálukdárs* and

The foregoing rules not to be applicable to *dosâds* or village

watchmen, entertained by the landholders.

other landholders for the purpose of watching crops, guarding granaries and other duties of that nature, which officers shall be left under the exclusive control of the *zemindárs, tálukdárs* and other landholders as heretofore.

General extension of the Regulations for the police, and the administration of criminal justice to Cuttack.

XIII. All Laws and Regulations for the maintenance of the police and for the administration of justice in criminal cases in the Province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation, and likewise such of the rules contained in Regulation IV, 1804 as are not either specifically or virtually rescinded by the present Regulation, shall have full force and effect in the *Zillah* of Cuttack and in the *Pargánas* of Puttespore, Kummardichour and Bograe included in the *Zillah* of Midnapore; provided however that no part of this Regulation shall be construed for the present to extend to the estates of certain hill or *jangal rájás* or *zemindárs*, of which the following is a list:—

No part of this Regulation to be construed to extend to the estates of certain hill and *jangal rajas or zemindars.*

Killah Nílgerí,	Killah Attgurh,	Killah Tigereah,
Ditto Bankey,	Ditto Kunjur,	Ditto Burrumboh,
Ditto Júrinú,	Ditto Kindeapara,	Ditto Deckenaul,
Ditto Nirsingpore,	Ditto Neahgurh,	The territory of Mohurbunge.
Ditto Augole,	Ditto Rampore,	
Ditto Toalcherrí,	Ditto Hindole,	

[See Act XX of 1850.]

REGULATION XIV OF 1805.

A REGULATION *for the Administration of Justice in Civil Cases in the Zillah of Cuttack.*—PASSED *by the Vice-President in Council on the 5th September* 1805.

General extension of the Regulations which now are or may hereafter be in force in the Provinces of Bengal, Bahár and Orissa, to Cuttack.

XI. The Laws and Regulations which now are or which may be hereafter established in the Provinces of Bengal and Bahár and in that part of Orissa heretofore subject to the British Government, for the guidance of the *Zillah* Judges, of the Judges of the Provincial Courts of Appeal and of the Sádr Díwání Adálat for the administration of justice in civil cases, including the Regulations for the manufacture of salt, for the provision of the investment and generally regarding all cases and matters subject to the cognizance of the Courts of Civil Judicature in the said provinces, which are not already extended to the *Zillah* of Cuttack, and which are not repugnant to or inconsistent with any of the provisions above stated or with any of the provisions contained in Regulations XII and XIII, 1805, are hereby declared to be in force in that *zillah* and in the *Pargánas* of Puttespore, Kummardichour and Bograe

provided however that nothing herein contained shall be construed for the present to be applicable to the estates of certain hill or *jangal rájás* or *zemindárs*, of whom a list is inserted in section 36, Regulation XII, 1805; and provided likewise that in cases, in which the Bengal language and character are directed to be used in the Province of Bengal, the Ooriya language and character shall be used in the *Zillah* of Cuttack and in the abovementioned *pargánas*. Exceptions.

[This section, so far as it applies to the Civil Courts and except the proviso, was repealed by Act X of 1861—See S. 1 and Schedule, *id.*

As to the proviso, see Reg. XI of 1816]

REGULATION XI OF 1806.

A REGULATION *for facilitating the progress of detachments of Troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories, and for extending the Rules contained in Sections* 68 *and* 72, *Regulation XXII*, 1795, *in Clauses fifth and sixth, Section* 14, *Regulation VIII*, 1805, *and in Section* 31 *of that Regulation, to the whole of the Company's Provinces subject to the immediate government of the Presidency of Fort William; for the guidance of the Civil Officers in applying for Guards from the regular battalions; and for modifying the Rule contained in Clause first, Section* 12, *Regulation I*, 1804.—PASSED *by the Governor-General in Council on the* 3*rd July* 1806.

Preamble.

Whereas it is expedient to enact into a Regulation for general information and observance the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing a compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops—and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or native) proceeding through their respective jurisdictions in procuring the means of prosecuting their journies—and whereas it is further necessary to extend to the other provinces under this Presidency (with modifications) the rules established in the Province of Benares by sections 68 and 72, Regulation XXII, 1795 prohibiting with certain exceptions the use of the uniform of the Company's native troops, the sending of *sipáhís* or *lashkars* into villages for the purpose of procuring provisions, or of pressing coolies and boatmen, and the employing of badged *peons* or other public servants wearing badges, as well as

the rule established in the Ceded and Conquered Provinces by clauses fifth and sixth, section 14, Regulation VIII, 1805 for the trial and punishment of military guards in charge of prisoners who may escape, and likewise the rule contained in section 31, Regulation VIII, 1805 for promulgating the Regulations in the country language—and whereas it is likewise necessary that fixed and defined rules should be established for the guidance of the Magistrates and other civil officers in applying for detachments, guards or escorts for the public service from the regular battalions—and whereas it has been judged advisable to modify the rule contained in clause first, section 12, Regulation I, 1804—the following rules have been enacted, to be in force throughout the whole of the provinces subject to the immediate Government of the Presidency of Fort William (according as such rules may be applicable to the said provinces respectively) from the date of their promulgation.

[Such parts of this Regulation as authorize the Collectors and their native officers or the Magistrates and their police officers to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of civil and military officers or other individuals travelling through the country, either on the public service or on their private affairs, were repealed by S. 2, Reg. III of 1820, *q. v.*]

Timely notice to be given to Collectors and Magistrates, by officers commanding detachments, proceeding through any part of the Company's territories.

II. Whenever a detachment of troops or a single corps shall be ordered to proceed by land or by water through any part of the Company's territories, the Commanding Officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the revenue of the *zillahs*, through which the troops are to pass, of the probable time of their arrival within such districts respectively, together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted. The Commanding Officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or *nálas* intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. The Commanding Officer will at the same time communicate to the Magistrates of the *zillahs*, through which the troops are to pass, the probable time of the arrival of the troops within their respective jurisdictions.

In what manner the Collector shall proceed on receiving the above notice.

III. *First.* On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, *tehsildárs* or other persons in charge of the lands, through which the troops are to pass, for providing the supplies required and for making any requisite preparations of boats or temporary bridges or otherwise for enabling the troops to cross such rivers or *nálas* as may intersect their march without any impediment or delay. The Collector shall at the same time depute a credit-

able Native Officer to accompany the troops through his jurisdiction for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops. It shall also be the duty of such Native Officer to provide the troops with whatever bearers, coolies, boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route. Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police officer, who is directed to afford his aid in providing the number of persons and of carts and bullocks required.

Police officers to assist in providing bearers, coolies, boatmen, carts and bullocks.

[See note to S. 1.]

Second. The supplies furnished under the foregoing clause (including earthen pots, fire-wood and every article of supply) shall be paid for by the persons receiving the same at the current *bazâr* prices of the place at which they may be provided; and all Officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies, or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

At what rates, supplies furnished to troops marching through the Company's territories, shall be paid for.

Commanding Officers to make immediate inquiry into complaints preferred to them against persons under their command.

[See Reg. VI of 1825.]

IV. *First.* Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations by any landholder, farmer, *tehsildár* or other person conformably to the orders of the Collector of the *zillah*, for the purpose of crossing the troops and their baggage over rivers or *nálas*, the Commanding Officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat and how long employed on the public service. In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the Commanding Officer is to specify generally the dimensions of the bridges and the materials of which they may be composed.

Certificate to be granted by the Commanding Officer, when troops shall be provided with boats, bridges, or other accommodations under this Regulation, to enable them to prosecute their route.

Such certificate to be transmitted to the Collector by the person receiving it, with a detailed account of the expense incurred.

Second. The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the *zillah* by the person receiving it, accompanied by the detailed account of the expense incurred for the purposes therein specified. The Collector shall without delay communicate the particulars

The account to be transmitted by the Collector to the Commanding Officer.

What to be

certified thereon by the Commanding Officer.

of the account to the Officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

The account and vouchers to be transmitted by the Collector with his report on the charges, through the prescribed channel to the Governor-General in Council.

In the mean time the Collector is empowered to pay such proportion of the charge as he may consider reasonable: inserting the amount at the foot of his treasury account.

Third. When the account abovementioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the *zillah*; and shall transmit the account with the vouchers and certificates relating to it with any requisite observations thereupon through the prescribed channel to the Governor-General in Council. After the account shall have undergone the examination and report prescribed for all military contingent charges, the Governor-General in Council will pass such final order as may appear proper. In the mean time the Collector is empowered in such cases to pay the amount of the charge or such proportion of it as he may consider reasonable to the landholder, farmer or other person entitled thereto, inserting the amount so disbursed by him at the foot of his treasury account, in explanation of his treasury balance in the mode prescribed for similar cases.

In what manner landholders and other persons farming or holding land, are to proceed, who shall have sustained any injury from the march or encampment of troops. Certificate to be granted by the Commanding Officer on such occasions.

V. *First.* Whenever a proprietor, farmer, tenant or manager of land, through which any detachment or corps of the Company's troops may march or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the Commanding Officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained, when the Commanding Officer is required to certify generally thereon, whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

The person receiving such certificate is at liberty to present the same, with a statement of his claim, to the Collector within ten days from the date of the certificate. Exception to foregoing rules. Rule for the conduct of the Collector on receiving such

Second. If the proprietor, farmer, tenant or manager after receiving such certificate shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the Commanding Officer's certificate thereon, to the Collector of the *zillah* (either in person or by his *vakíl*) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay. The Collector on receiving a statement of damage and the Commanding Officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear

requisite to ascertain whether or not the claim be well-founded, and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government. It is however declared that no claim will be received, unless accompanied by the prescribed certificate of the Commanding Officer of the troops by whom the damage may be stated to have been committed, excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate. In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the Officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

statement and certificate. To report his proceedings to the Board of Revenue for the orders of Government. With the exception specified in this clause, no claim will be received, unless accompanied by the prescribed certificate of the Commanding Officer.

VI. Immediately on receiving the notification mentioned in section 2, the Magistrate shall transmit orders to the several police *daroghas* or other local officers of the police, through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions, and to co-operate as far as necessary with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished and in preventing any alarm to the inhabitants of the country.

In what manner the Magistrates are to act, on receiving the notice mentioned in section 2. In what manner the police officers are to assist in facilitating the march of troops.

VII. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required by the general orders, issued under date the 1st of February 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route. In like manner, the Collectors are directed to report to the Board of Revenue, and the Magistrates to report to the Nizámat Adálat, for the information of the Governor-General in Council, any complaints which may be made to them of the misbehaviour of the troops when such complaints shall appear to be well-founded and of sufficient importance to require communication to Government.

What report to be made to the Commander-in-Chief by Officers commanding troops on their march through the Company's territories. In certain cases any misbehaviour of the troops to be reported by the Collectors to the Board of Revenue, and by the Magistrates to the Nizámat Adálat for the information of Government.

VIII. Whenever any Military Officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or native) not restricted by Government from passing through the country, may

Police officers are empowered, in cases of necessity, to assist travellers

in prosecuting their route. In what manner such assistance shall be afforded.

be proceeding within any part of the Company's provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, coolies, boatmen, carts or bullocks or any necessary supplies of provisions or other articles. On receiving an application of the above nature the police officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers, coolies or boatmen, or the requisite number of carts and bullocks not exclusively appropriated to the purposes of agriculture, and occasionally let for hire, can be procured within his jurisdiction. But all police officers are strictly forbidden, under pain of dismission from office (under the rules prescribed by Regulation V, 1804), on applications of the above nature to compel any persons not accustomed to act as bearers, coolies or boatmen to serve on such occasions; or to furnish a traveller or cause him to be furnished with bullocks or carts kept for private use and not for hire or exclusively appropriated to the purposes of agriculture. Persons so employed and the persons in charge of carts and bullocks so provided shall be at liberty to return from the first police station in the next *zillah*, through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons. The police officers are further enjoined to be careful that a proper compensation for the bearers, coolies, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided be secured to the persons entitled thereto. For this purpose the police officers are authorized to adjust the rate of hire to be paid for the bearers, coolies, boatmen, carts or bullocks required, and the price of any articles provided, as well as to demand that the whole or a part according to the circumstances of the case be paid in advance. Should any traveller refuse to comply with the adjustment or demand so made by a police officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

Persons and carts and bullocks of certain descriptions not to be employed in furnishing such assistance. Penalty for a breach of the above rule. Persons employed, under this section to be at liberty to return from the first police station in the next *zillah*, unless they may have engaged to the contrary.

On what conditions assistance will be afforded to travellers.

[See note to S. 1, above.]

Provision for the trial and punishment of military guards in charge of convicts by certain cases.

X. *First.* The rules contained in the following clauses, which have been already established in the Ceded and Conquered Provinces by clauses fifth and sixth, section 14, Regulation VIII, 1805, are hereby declared to be in force throughout the rest of the Company's territories under this Presidency.

Second. Provision is made by section 6, Regulation II, 1799 for the punishment of guards in charge of convicts who may have escaped, and in certain cases for committing or holding such guards to bail for trial before the Court of

Circuit. This provision is extended to guards in charge of prisoners who may escape from their custody whether before or after conviction, but shall not be considered applicable to military guards from the provincial battalions (while such battalions continue subject to military law), or from any regular corps of the army. Whenever it shall appear to the Magistrate, that a guard furnished from any of the regular battalions, from any provincial battalion or from any other corps subject to martial law, has been guilty of wilful neglect in guarding the prisoners under his charge, or of connivance at the escape or the attempt to escape of any prisoner, or of any other act of a criminal nature in the discharge of his duty, the Magistrate shall cause the offender to be delivered over to the Officer commanding the provincial battalion or the detachment to which he may belong, with a charge in writing, that he may be tried, and punished on conviction by a Court Martial.

[Reg. II of 1799 has been repealed.]

Third. The mode of proceeding against military guards directed in the preceding clause shall be observed with respect to any other offence involving a breach of military duty and properly cognizable by Courts Martial, but shall not be held applicable to any criminal charge against such guards or other *Sípáhís*, whether belonging to the provincial battalions or regular corps of the army, which may not involve a breach of military duty and the cognizance of which may therefore appertain to the Civil Courts.

The foregoing rule not applicable to charges against such guards, which are cognizable in the Civil Courts.

XIII. It being necessary, in consequence of the reduction of the provincial battalions in the Upper Provinces, that rules should be established for the guidance of the Magistrates and of the other civil officers in the several *zillahs* in applying for guards or detachments from the regular corps for the support of the police or for other duties connected with their public situations; and likewise for the guidance of the Military Officers commanding the corps, from which such guards or detachments are to be furnished—the following rules have been accordingly enacted.

Rules for the guidance of the Civil Officers in applying for guards and detachments from the regular corps of the army, and for the guidance of the Military Officers commanding corps in such cases.

XIV. *First.* Whenever the Magistrates may require detachments of troops from the regular battalions for the apprehension of public offenders or for the maintenance of the peace in their respective districts, they shall state in writing, as fully and circumstantially as may be practicable, the nature of the service required to be performed to the Officer commanding the corps or companies from which the detachment is to be furnished, leaving it to the Commanding Officer on a consideration of the circumstances stated to judge of the strength of the force which should be employed in the execution of the duty in question.

Applications to be made in writing, stating the service to be performed and military officers to determine the force requisite for such service.

Civil Magistrates responsible for calling in the aid of the military in cases of emergency, and Military Officers not to exercise any discretion in granting or withholding such aid. Report to be made to Government by the Magistrates.

Second. The power vested in the several Magistrates by the foregoing rule being founded upon the nature and exigency of the case, which may frequently require promptitude and decision and will seldom admit of a reference to Government, it shall be the duty of Officers commanding corps and detachments immediately to furnish the necessary military aid, whenever applications may be regularly and publicly made to them by the Magistrates for troops for the maintenance of the peace or for the support of the general police of the country. By those means the responsibility of calling in the aid of the military will rest with the Civil Magistrates, and the allotment of the force will depend upon the Officers commanding troops, who are not however on occasions of this nature to exercise any discretion in granting or withholding the required aid. But as it is at the same time essential to restrict the employment of military force to cases of absolute necessity, the Magistrates are hereby enjoined to confine their requisitions for military force to cases of that description, and to report to Government whenever they may apply for military aid under the rule contained in this section, at the same time furnishing the Governor-General in Council with the necessary information respecting the circumstances upon which the application for such aid may have been grounded.

Military officers to report their compliance with such applications to the Commander-in-Chief.

Third. The Officers commanding troops, by whom such detachments may be furnished in pursuance of the applications of the Magistrates, shall immediately transmit the necessary reports thereof to the Commander-in-Chief.

[See Chapter XXXVI, Ss. 480—488, of the Code of Criminal Procedure, Act X of 1872.]

Rules for supplying the permanent guards required by the several civil officers.

XV. *First.* The permanent guards required by the Magistrates, by the Collectors of the land revenue and customs, by the Commercial Residents, and by any other Public Officers authorized to require such guards for the protection of the public treasuries, stores or other property, shall be in future furnished in the Ceded and Conquered Provinces from the regular battalions. The civil officers requiring permanent guards shall accordingly state fully and circumstantially the nature of the service necessary to be performed to the Officer commanding the corps from which the guards are to be furnished. On receipt of such information, the Commanding Officer shall furnish guards of such strength as he may deem necessary; provided that no public objection shall occur to a compliance with the application and that he shall be satisfied, that the Civil Officer from whom the application may have been received was entitled to make it by the general rule and usages of the service. But as the same necessity does not exist for vesting the Magistrates and other Public Officers in cases of this nature with the extensive powers entrusted to the Magistrates in the cases described in section 14 of

the present Regulation, the Commanding Officer shall be at liberty, in case he shall deem it necessary or proper on any public grounds, to suspend compliance with the application and to refer the case to the Commander-in-Chief, who will forward the representation to Government for its decision or pass such orders on the subject as may appear to him to be proper. With the view likewise of preventing abuse of the powers vested in the Civil Officers in applying for guards from the regular battalions, the Magistrates and other Officers in the judicial department shall on the receipt of the present Regulation transmit to the Governor-General in Council a statement of the permanent guards employed or required by them, for his consideration and orders. In like manner the Officers in the revenue and commercial departments shall transmit to the Board of Revenue and Board of Trade a statement of the permanent guards required by them in the discharge of the duties of their respective offices; and the Board of Revenue and Board of Trade shall forward the statements required from the officers acting under their authority, with any remarks which they may deem necessary for the consideration and orders of Government.

Permanent guards not to be increased without the the previous sanction of Government.

Second. When the permanent guards required by the different officers in the civil department of the service shall have been fixed under the rule contained in the preceding section, no augmentation shall be made in the number or strength of such guards without the express sanction of the Governor-General in Council.

[The duties referred to in this section are now pretty generally performed by the police constituted under Act V of 1861.]

Rules for supplying civil officers with temporary escorts.

XVI. The temporary escorts which may in future be required by the Magistrates, by the Collectors of the land revenue and customs, by the Commercial Residents and by any other Public Officers authorized to require military aid for the remittance of treasure, of stores or of other public property, or for other purposes connected with their respective official situations, are in future to be furnished in the Upper Provinces from the regular battalions. The Civil Officer requiring any such escort is accordingly to state fully and circumstantially the nature of the service necessary to be performed to the Officer commanding the corps from which the required escort is to be furnished. On receipt of such information, the Commanding Officer shall furnish an escort of such strength as he may deem necessary for the performance of the duty in question; provided that no substantial public objection shall occur to a compliance with the application and that he shall be satisfied, that the Civil Officer from whom the application may have been received was entitled to make it by the general rules and usages

of the service. But if not, the Commanding Officer shall be at liberty to suspend compliance with the application and to refer the case to the Commander-in-Chief, who will forward the representation to Government for its decision or pass such orders on the subject as may appear to be proper.

[These duties also are now generally performed by the Police organized under Act V of 1861.]

Civil officers in the judicial, revenue, and commercial departments to send monthly statements of guards, detachments, and escorts employed by them to Government, the Boards of Revenue and Trade respectively.

XVII. It shall be the duty of Magistrates and other officers in the judicial department to transmit to Government on the first of each month a statement of the guards, detachments and escorts employed by them in the preceding month. The Collectors, Commercial Residents and other officers in the revenue and commercial departments shall in like manner transmit to the Board of Revenue and Board of Trade on the first of each month a statement of the guards, detachments and escorts employed by those officers respectively in the preceding month; and the Board of Revenue and Board of Trade are hereby required to report to Government, whenever they may be of opinion that the guards, detachments or escorts employed by the officers subject to their control were not requisite for the public service.

The foregoing rules framed chiefly with reference to the Ceded and Conquered Provinces. Similar rules to be observed by the civil and military officers in the Lower Provinces in cases wherein the former may have occasion to apply for military aid.

XVIII. The foregoing rules have been framed chiefly with a reference to the Ceded and Conquered Provinces, in which the military duties connected with the offices of the Magistrates, Collectors and other Public Officers in the civil branch of the service are to be performed by the men of the regular corps. Provincial battalions having been established in the Provinces of Bengal, Bahár, Orissa and Benares for the discharge of those duties, it can seldom (if ever) be necessary for the Magistrates, Collectors and other civil officers in those provinces to apply for guards or detachments from the regular battalions. Should any emergency however at any time occur to render the services of the regular corps necessary for the maintenance of the internal peace of the country, or for any other public duty connected with the situations of the magistrates or other civil officers, those officers and likewise the officers commanding corps and detachments in the Provinces of Bengal, Bahár, Orissa and Benares, are to conform to the rules contained in sections 14, 15 and 16 of the present Regulation.

The foregoing rules not applicable to the Presidency station. Applications for guards, &c. in Calcutta or its vicinity, how to be made.

XIX. The foregoing rules are not to be considered applicable to the Presidency station. Whenever guards, detachments or escorts may be required by the Magistrates of Calcutta and of its vicinity or by any of the other civil officers for the discharge of any public duty connected with their respective official situations, they are to make the necessary application for that purpose agreeably to former usage to the Governor-General in Council through the channel prescribed for conducting the public correspondence.

REGULATION XVII OF 1806.

A REGULATION *for extending to the province of Benares the rates of Interest on future Loans, and provisions relative thereto contained in Regulation XV,* 1793*; also for a general extension of the period fixed by Regulations I,* 1798 *and XXXIV,* 1803 *for the Redemption of Mortgages and Conditional Sales of Land under Deeds of Bai-bil-wafâ, Kat-Kabala or other similar designation*—PASSED *by the Governor-General in Council on the* 11*th September* 1806.

Preamble.

THE rules prescribed by Regulation I, 1798 for preventing fraud and injustice in conditional sales of land under deeds of *bai-bil-wafâ* or other deeds of the same nature were declared to extend to Benares, as well as to the Provinces of Bengal, Bahár and Orissa, and under the terms of section 2 of that Regulation might be considered from the time of its publication to have established the general limitation of interest at the legal rate of "twelve per cent. per annum" As however the provisions relative to a limitation of interest contained in Regulation XV, 1793 and re-enacted for the Ceded and Conquered Provinces by Regulation XXXIV, 1803 have never been expressly extended to Benares, and as it appears that the limitation of twelve per cent. per annum has not yet been considered in force within that province, it is necessary that an express rule should be enacted for extending to Benares the same limitation of interest and provisions connected therewith as are in force throughout the other provinces under this Presidency. It is further requisite for the purpose of preventing improvident and injurious transfers of landed property at an inadequate price by the forfeiture of mortgages accompanied with a condition of sale to the mortgagee, if the amount advanced be not repaid within a stated period (which description of mortgage is common throughout the country under deeds of *bai-bil-wafâ, kat-kabala,* and other similar designations), that an equitable provision should be made for allowing a redemption of the estate within a reasonable and limited period on payment of the principal sum lent, with interest thereupon if the mortgagee shall not have been put in possession. The Governor-General in Council has accordingly enacted the following rules to be in force from the time of their promulgation in the several provinces therein specified respectively

Provisions of Regulation XV, 1793 extended to Benares from

II. The provisions contained in the several sections of Regulation XV, 1793 are hereby declared to extend to the Province of Benares from the commencement of the ensuing year 1807 A.C. corresponding with the 19th Poos of

the date herein specified with certain modifications.

the Bengal year 1213, and 7th Poos of the Fussily year 1214—subject to the following modifications.

[This section, in so far as it extends to Benares ss. 4, 6, 7, 8, 9, 10, and 11 of Reg. XV of 1793, was repealed by s. 1, Act XXVIII of 1855, which also repeals these sections of Reg. XV of 1793. The remaining sections of Reg. XV of 1793 have been repealed by Act VIII of 1868, save as provided therein. In so far as concerns the extension to Benares of these remaining sections, the above section (2 of Reg. XVII of 1806) has never been expressly repealed—See note to s. 3, Reg. I of 1798.]

What rates of interest to be decreed by the Courts of Civil Judicature, if the cause of action have arisen before the period stated in the preceding section. Laws and usages of the province, and the spirit of section 9, Regulation VII, 1795 to be applied in certain cases.

III. Instead of the limitations of interest specified in sections 2 and 3, Regulation XV, 1793, if the cause of action shall have arisen before the period stated in the preceding section, the Courts of Civil Judicature are to decree whatever rate of interest may have been voluntarily stipulated; or, if interest be payable in any case wherein a specific rate may not have been stipulated, according to the law and usage of the province, in conformity with the spirit of section 9, Regulation VII, 1795, which directs with respect to bills of exchange, receipts or notes of hand, that the custom of the country is to be abided by, and with respect to dealings and money transactions amongst *mahajans* and *sarrafs*, that the established customs observed and enforced amongst them are to be adhered to by the Courts in their inquiries and decisions.

The forfeiture of principal and interest in the cases herein specified, enacted by section 8, Regulation XV, 1793, not to be considered applicable to *bonâ fide* loans contracted, or bonds executed, previously to the period specified in section 2.

V. The forfeiture of interest for stipulation of a higher rate than what is authorized, enacted by section 8, Regulation XV, 1793, and the forfeiture of principal and interest in cases of attempts to elude the prescribed rules by deductions from the principal or other devices, provided against by section 9, Regulation XV, 1793, shall not be considered applicable to any loans actually and *bonâ fide* contracted or to any bonds or other instruments voluntarily given for the evidence and security of such loans previously to the period stated in section 2 of this Regulation.

Provisions in addition to those made by Regulations I, 1798, and XXXIV, 1803 for the redemption of mortgages and conditional sales of land under deeds herein specified. What shall entitle the mortgagor or his legal representative to re-

VII. In addition to the provisions made in the Provinces of Bengal, Bahár, Orissa and Benares by Regulation I, 1798 and in the Ceded and Conquered Provinces by Regulation XXXIV, 1803 for the redemption of mortgages and conditional sales of land under deeds of *bai-bil-wafâ, kat-kabala* or any similar designation, it is hereby provided that, when the mortgagee may have obtained possession of the land on execution of the mortgage deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property

the payment or established tender of the principal sum lent with any interest due thereupon, shall entitle the mortgagor and owner of such property or his legal representative to the redemption of his property before the mortgage is finally foreclosed in the manner provided for by the following section, that is to say, at any time within one year (Bengal, Fussily or Willaity, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the *Zillah* or City Court of *Díwání Adálat* for foreclosing the mortgage and rendering the sale conclusive in conformity with section 8 of this Regulation—provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative, or that the amount due be deposited within the time above specified in the *Díwání Adálat* of the *zillah* or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor in such cases by section 2, Regulation I, 1798 and section 12, Regulation XXXIV, 1803, the whole of the provisions contained in which sections as applied therein to the stipulated period of redemption are declared to be equally applicable to the extended period of one year granted for an equitable right of redemption by this Regulation.

demption of his property before the final foreclosure of the mortgage, at any time within the period of one year from and after the period of the application made by the mortgagee to the *Zillah* or City Court for foreclosing the mortgage. Proviso.

[If the mortgagee have *not* been put in possession of the mortgaged property, the payment or tender must be of the principal *together with interest.* If on the contrary the mortgagee have obtained possession, payment or tender of the principal only is necessary in order to save the equity of redemption, the interest being left to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. Where the mortgagees had sued and obtained a decree for possession, but being opposed in the execution of this decree by the *zar-i-peshgidars* each of the mortgagees had instituted a suit against these for possession of his own share with mesne profits from the date of such suits and had obtained decrees and were admittedly in possession of a portion of the lands—*Held* that, having obtained decrees for possession and *wasilat* (mesne profits), it was their own fault if they did not execute them and that they were *in possession* within the meaning of the above section, so as to render a deposit of the principal only sufficient to save the equity of redemption—*Sakriman Dichut and others* v. *Dharam Nath Tewari and others, III B. L. R. Civ. Ap.* 141—And see *Abdála Khan* v. *Upendra Chandra,* VI B. L. R. Appen. 53.]

VIII. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition to be presented by himself or by one of the authorized *vakíls* of the Court to the Judge of the *zillah* or city in which the mortgaged land or other property may be situated. The Judge, on receiving such written application, shall cause the

How a mortgagee or holder of a deed of conditional sale is to proceed, when desirous of foreclosing a mortgage, or rendering a conditional sale conclusive—To present a petition in person or by an authorized

vakil to the Judge of the *zillah* Court—How the Judge is to proceed on receiving such petition.

mortgagor or his legal representative to be furnished as soon as possible with a copy of it, and shall at the same time notify to him by a *parwána* under his seal and official signature, that, if he shall not redeem the property mortgaged in the manner provided for by the foregoing section within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

[The foreclosure procedure provided by this section does not apply to the High Court on its Original Side—*Bank of Hindustan, China and Japan* v. *Nandolal Sen and others*, XI B. L. R. 301: nor has it been extended to Madras—*Pattabhiramier* v. *Vencatarow Naicken*, XIII Moo. Ind. Ap. 560. When the land is situate in two districts, the application for foreclosure may be made to the Judge of the Court of either district. Service of the copy of the application, together with the Judge's notification on the widow, who had a life-interest with a species of power—*viz.* a power to appoint an heir by adoption, which heir when appointed would have a right to the inheritance, the widow being his guardian in the interim—was held to be a good and sufficient service—*Rasmani Devya* v. *Pran Kissem Das*, IV Moo. Ind. Ap. 392.

The *parwána* must distinctly notify as required by this section that, if the mortgaged property be not redeemed within a year, the mortgage will be finally foreclosed and the conditional-sale become conclusive; otherwise there will be no sufficient compliance with the requirements of the Regulation and the foreclosure proceedings will be irregular—*Bhikhan Khan* v. *Bechan Khan*, III N. W. P. Rep. N. S. 35. A notice signed by a Munserim is not a sufficient compliance with the law, which requires the Judge's official signature—*Seith Hur Lal* v. *Manick Pal and others*, III N. W. P. Rep. N. S. 176. Unless a *copy of the application* accompanies the notice, the proceedings will be irregular and invalid—*Dinonath Ganguli* v. *Nursingh Persad Dass*, XXII W. R. 90: *Santi Ram Jana* v. *Modu Myti*, XX W. R. 363.

Notice on whom to be served.

In *Mohan Lal Súkal* v. *Golak Chandra Datta* (X Moo. Ind. Ap. 1, and I W. R. P. C. 19) their Lordships of the Privy Council remarked—"It is quite clear upon the authorities that if the sale "(in execution of a decree)" had taken place before the notice of foreclosure was served, that notice to be effectual must have been served on the purchaser." In *Gúrú Persád Jana* v. *Bipro Persad Berra, &c.* (I Mar. 293) the equity of redemption had not been assigned until *after* the mortgagee had served notice of foreclosure upon the mortgagor, and it was held that the *assignee* had no ground of complaint in consequence of not having been served with notice. The Court also said—"Nor do we think, if the mortgagor had assigned to the appellant the equity of redemption before the notice of foreclosure, there would have been any obligation upon the mortgagee to serve, or any right on the part of the appellant to insist upon service of, such notice upon him." This remark was a mere *obiter dictum* not necessary for the decision of the case. The subsequent cases decide that, if the assignment take place before the service of notice, the mortgagee, if aware of the assignment (and also perhaps if such assignment be not inconsistent with the terms of the original mortgagee) must serve notice upon the assignee—*Kishen Ballab Mahta* v. *Belasú Kummur, &c.* III W. R. Civ. Rul. 230: *Mahoram Musser* v. *Khagpat Das*, V R. C. & C. R. Civ. Rul. 334: *Ganga Gobind Mandal* v. *Bani Madhab Ghose*, III. B. L. R. Civ. Ap. 172: *Bhanúmati Chaudhrain* v. *Prem Chand Neogi and another*, XXIII W. R. 96: *Sheo Ghulam Singh and others* v. *Ram Rup Singh and others*, XXIII W. R. 25, and I B. L. R. Short Notes iii. A second mortgagee is within the rule and entitled to notice—*Nadiyar Chand Chakravarti and others* v. *Rúp Das Banerji*, XXII W. R. 475. In *Mahant Jairam*

Gir v. *Raja Krishan Kishore Chand*, V N. W. P. Rep. Civ. Ap. 307, the High Court of the North-Western Provinces held, that notice having been served before assignment, a fresh notice to the assignee was not necessary, observing—"The requirements of the Regulation were satisfied by the service of the notice on the person who, at the time of the service, was entitled to redeem." See also *Bhanúmatí Chaudhrain* v. *Premchand Neogí and another*, XV B. L. R. 28. In the case of a minor, service on the minor and his mother was held sufficient—*Dabi Persad and another* v. *Man Khan*, IV N. W. P. Rep. N. S. 444, and see above the case at IV Moo. Ind. Ap. 392. As to a lunatic, see *The Court of Wards* v. *Kapalman Singh and another*, X B. L. R. 364.

Mode of Service.

As to the *mode of service*, the Regulation does not provide for any mode of service in substitution for personal service. It has in some cases been held that personal service is not necessary; but, in order to justify resort to any other mode of service, it ought to be shown that, notwithstanding all reasonable efforts, personal service could not be effected—*Madhú Singh and another* v. *Mahtab Singh and others*, III N. W. P. Rep. N. S. 325. Under Reg. XVII of 1806, a Zillah Judge is judicially required to see that it is *proved* before him *that the notice has been duly served*, and to record a proceeding certifying that all that Reg. XVII of 1806 requires has been duly carried out. The foreclosure proceedings are therefore *primâ facie* proof of service—*Mír Abbas Ali* v. *Nand Kúmar Ghose and others*, VII W. R. Civ. Rul. 123. In a suit for maintenance of possession by a mortgagee against the purchaser (at a sale in execution of a decree) of the mortgagor's rights, it was held that plaintiff was bound to show by evidence independently of the mere copy of the foreclosure proceedings that the notice was served, as a plaintiff is required to prove his case when a fact alleged by him is challenged by the opposite party—*Súkhman* v. *Chúraman*, I N. W. P. Rep. Civ. Ap. 172.

Costs of Notice.

With reference to the *costs of the notice*, it was said in *Gangaval Ajáh* v. *Gopal Opadha and others*, II Sev. 335: "Reg. XVII of 1806 is silent as to these *costs*, and therefore, as there is no provision in the mortgage deed relating to them, we think that the plaintiff was not bound to pay them into Court. The applicant also objects that the plaintiff is wrong in claiming to deduct *interest* on the sums paid into Court. We think this argument is well founded, because the defendant had not the money, and could not venture to take it out of Court without peril to his security."

Calculation of the Year of Grace.

In the case of *Mahesh Chandra Sen* v. *Tarini* (I B. L. R. F. B. 14), it was finally settled by a Full Bench of the Calcutta High Court that the '*one year from the date of the notification*' is to be calculated from *the date of the service of the notice* (excluding the day of service) and not from the date of the notification or date of issue of the notification, as formerly ruled by the Sádr Court—See also *Sarúp Chandra Nag* v. *Bonomali Pandit* (9 W. R. Civ. Rul. 116; V R. C. & C. R. Civ. Rul. 63), in which it was remarked that '*the application of the mortgagee*' in s. 7 of this Regulation must mean the whole transaction contemplated in s. 8, ending with the notification to the mortgagor. The rule in the North-West Provinces is still to reckon from the issue and not from the service of the notice—*Ghazí-udín* v. *Bhúkun Dhobí*, III N. W. P. Rep. Civ. Ap. 301. The mortgagee caused a second notice to be served on the mortgagor, especially asking that such second notice should run from the date of the first notice. More than a year from the service of the first notice, but less than a year from the service of the second notice, foreclosure took place. It was contended for the mortgagor that he was entitled to count the year of grace from the date of the second notice, but the High Court held this contention untenable, regarding the second notice not as a fresh notice, but as a re-service of the first notice for greater caution—III N. W. P. Rep. Civ. Ap. 187. The Civil Court was closed on account of a regular holiday on

the day on which the year of grace expired. *Held* that it was not sufficient to make the deposit on the first day on which the Court opened, that it was the business of the mortgagor to have come before the holiday, as he might have known thereof, the authorized holidays of the Civil Courts being always duly notified beforehand—*Kamala Kant Meití* v. *Srímati Naraini Dási and others*, IX W. R. Civ. Rul. 583 V R. C. & C. R. Civ. Rul. 337. From this case must be distinguished *Dabí Rawút and another* v. *Hiramun Mahatún and others* (VIII W. R. Civ. Rul. 223 and IV R. C. & C. R. Civ. Rul. 157), in which the day for payment had been extended by consent of parties, and on the last day so fixed the Court was closed, not for an *authorized holiday*, but improperly and without authority. The deposit here made on the first open day was held to be sufficient. Foreclosure cannot be applied for before the expiry of the "stipulated period" or period prescribed by the mortgage contract for the performance of its conditions; and proceedings taken before such expiry are wholly inoperative—*Sarasibala Debí and another* v. *Nand Lal Sen*, V B. L. R. 389.

A mortgaged by *bai-bil-wafâ* or *kat-kabala* certain property to B. A long litigation subsequently took place as to the property between parties who claimed it by gift and by heirship, and one C, who claimed under an alleged sale by A. In this litigation B intervened for the purpose of protecting his own interests, and the several decrees which were passed were expressed to be without prejudice to B's claims as mortgagee. Finally the claims of all other parties against C were dismissed. B thereupon, contending that a foreclosure of the title to redeem had duly taken place, brought against C and others the usual suit for possession in order to perfect in himself the proprietary right to the lands free from redemption. This suit was brought *more than twelve years after* the time fixed for payment of the money in the mortgage deed. C contended that under S. 14 of Reg. III of 1793, B was barred by limitation; also that the right to foreclose had been defeated by a due deposit of the mortgage money. Although S. 14, Reg. III of 1793 has been repealed, and the decision on the first point, so far as regards its particular application to this section, is now of little importance, yet, as the remarks of the Privy Council have also a general application to similar enactments and to the rights of mortgagors and mortgagees as affected by limitation, a brief notice of these remarks will be useful. Their Lordships observed that, in considering the effect on a plaintiff's suit of a legislative bar created by general words, it is often important to regard the nature and object of the suit, the nature of the title to which the bar is set up, who the parties are who raise the objection, and against whom it is raised: that the bar from a twelve years' possession under those Regulations did not depend simply on the length of possession, it might exist in favour of one occupant and not of another, might be powerful against one demand or one sort of claim and be at the same time inoperative as against others. The time might run from a date prior or subsequent to the plaintiff's title to possession. A cause of action is not prolonged by mere transfer of title. It cannot therefore be laid down as a rule universally true under the section in question that a mortgagee's proceeding for a foreclosure under a mortgage of the class of *bai-bil-wafâ* simply cannot be preferred after twelve years from the expiration of the time which the instrument fixes as the period of redemption by payment, and on the expiration of which the conditional sale will become absolute, for this indiscriminating ground of decision would include alike adverse occupations and *those which had not the semblance even of such a character*, and would establish a bar arising from simple occupation, and not from the laches of the demandant or others before him. That, if the transaction were viewed as it should be under the Regulations, *viz.* one of mortgage redeemable at any time by the mortgagor or those claiming under him, then, as no difference between the law of India and that of England as to the relations between mortgagor and mortgagee on this point had been suggested to their Lordships, the possession of

those who claim under the mortgagor, so long as they assert a title to redeem and *advance no other title* inconsistent with it, must *primâ facie* at least be treated as perfectly reconcilable with and not adverse to the title of the mortgagee. Their Lordships were unable to find in the particular case anything to support an inference that the once undoubted right of the mortgagee to enforce possession was at an end or barred or incomplete. His intervention in the previous litigation—the decrees made therein showed the contrary, and they therefore decided that he was not barred. With respect to the second objection, *viz.* that B had refused a valid tender of the money, it appeared that C had lodged the money in Court, petitioning that it might be paid out to B, but had in his petition disputed the validity of B's title to foreclose and expressed an intention, amounting to a notice, of suing B to recover back the very money he was tendering. The Privy Council held C's tender made in this manner insufficient to satisfy the law, remarking that the meaning of the direction that the "money be paid into Court clearly is that the mortgagor may have adequate and lasting evidence of that which is put in place of a tender; and the mortgagee, the security and advantage of a deposit in acknowledgment of the title. The mortgagee would have little inducement to take the money, waiving his lien by its acceptance, if litigation on the very same subject were to recommence upon his acceptance of the money." But independently of this objection there was another and a graver reason for holding the payment not to be such a payment as the Regulations contemplate. C's title to redeem was neither proved nor admitted. A grave suspicion rested on the purchase which he alleged he had made under the option given him by A. The acceptance of C's money would have been an admission by B of a title to redeem in which he was not bound to acquiesce. This title not having been proved, B's refusal must be viewed in the same light as if the money had been tendered by one who had no title to redeem the mortgage, and who did not offer it with due consent in the name of the heir of the mortgagee. It was urged that B had served notice on C and was by this estopped, but their Lordships decided otherwise, remarking —"The mortgagee cannot tell the exact nature of an occupant's title in all cases, nor how far he may be entitled with the mortgagor's consent to tender in his name. It is best to have a general rule, and service on the occupant is calculated to prevent errors."—*Prannath Rai Chaudhrí* v. *Ram Ruttun Rai and others*, VII Moo. Ind. Ap. 323. As to the necessity of the deposit being unconditional, see also *Abdúr Rahman* v. *Kishto Lal Ghose*, B. L. R. Sup. Vol. F. B. 598, and VI W. R. Civ. Rul. 225.

Deposit must be unconditional.

In the case of *Baldín and others* v. *Mussamat Goláb Kunwar and others* (N. W. P. Rep. I F. B. 102) it was stipulated in the deed of conditional sale that the loan should be repaid in *nineteen* annual instalments from 1846 to 1864, and that, if the instalments for two years were unpaid when a third instalment fell due, the mortgagee should be entitled to foreclose and obtain possession. In 1848 a third instalment fell due, two previous instalments being unpaid. No steps to foreclose were taken till May 1861, when proceedings were commenced and an order of foreclosure was obtained on 11th July 1862, upon which a suit to obtain possession of the property was instituted in January 1866. To this suit limitation was pleaded under cl. 12, s. 1, Act XIV of 1859, inasmuch as *twelve years* had elapsed since the default in 1848, from which it was contended that the cause of action dated. The High Court observed that the deed gave the plaintiffs an inchoate and conditional right or interest in the land, which they might convert into a complete and absolute title of ownership; that power of foreclosing, when three annual instalments remained unpaid, was not inconsistent with the right attached by law of foreclosing "on the expiration of the stipulated period" (nineteen years in this case), "or at any time before the sum lent is repaid" (s. 8, Reg. XVII of 1806); that this special stipulation did not express that on such default the whole amount was to become payable, or that foreclosure was to be made then

and not afterwards. The Court were of opinion that the cause of action arose upon the final foreclosure and that the suit was therefore within time, and expressed their dissent from those cases which decided that, as the mortgagee's cause of action arises on the mortgagor's default, the mortgagee's suit for possession must be instituted within twelve years from the date of default with allowance for the year of grace. Reference was made to the above case of *Prannath Rai Chaudhrí*, and it was observed that a default may be made by the mortgagors, which may give the mortgagee a right to sue or to enter into possession (if he chooses to assert such right), but which may notwithstanding have no effect whatsoever in altering the nature of the mortgage title. If, notwithstanding one or more defaults, there is no repudiation of the mortgagee's right, but on the contrary a recognition of it, there is nothing in the law to limit the time within which the mortgagee may foreclose. With reference to certain other issues in this case, it was remanded in order to consider the effect of the whole evidence, and whether it tended to show a possession by the mortgagors for any and what number of years adverse to and inconsitent with the mortgage title which was denied, and as to this it was remarked that it is well settled that foreclosure proceedings under the Regulations give no efficiency to transactions not in themselves valid.

If a mortgagee in possession fraudulently allows the Government revenue to fall into arrears with a view to bringing about a sale of the land and purchasing it himself, he will not by such a purchase be permitted to defeat the equity of redemption—*Nawab Sidhî Nazir Ali Khan* v. *Ojudharam Khan*, X Moo. Ind. Ap. 540; see also IV R. C. & C. R. Civ. Rul. 205, and VIII W. R. Civ. Rul. 399, where this case will be found in another stage.

In 1850, A and B borrowed Rs. 450 from C, and secured its repayment by a deed of conditional sale of two houses. The deed contained no stipulation for the payment of interest, and the principal was to be payable at the expiration of two years. Nine years after, *i.e.* in 1859, C foreclosed the mortgage. A and B had never given him possession, nor did he at any time take or sue for possession. In 1862 and 1864 the two houses were sold separately, the mortgagors and the mortgagee being parties to the sales and assenting to them; and on each of these sales the zemindars received their *hak-chaharam*, or customary due of one-fourth the purchase-money. The zemindars then sued A, B and C for one-fourth of Rs. 759 said to be due on foreclosure, when the conditional sale became absolute. It was found that the zemindars were entitled to the customary due *not only upon ordinary sales, but also upon conditional sales becoming absolute by foreclosure.* It was decided that the zemindar's right is to a share of the purchase-money, not merely to claim that share from the vendor, that it was therefore incumbent on the purchaser, if he would acquit himself of all liability, to see that the zemindars were satisfied in respect of their due and he could not discharge himself by a payment to the vendor, therefore that the zemindárs were entitled to a decree against C, as well as against A and B: but that the sum on which the one-fourth should be calculated was, not the amount due at the time of foreclosure, but Rs. 450, the purchase-money under the terms of the conditional sale—*Hira Ram* v. *Hon'ble Sir Raja Deo Narain Singh and others*, I N. W. P. Rep. F. B. 63.

Certain revenue-free land having been resumed was settled with the mortgagee in possession—*Held* that his possession was not adverse to the plaintiffs, the mortgagors—*Ram Dyal* v. *Shah Baz Khan and others*, I N. W. P. Rep. 15; *Mussamat Omrao Begum* v. *Mussamat Nizam-ún-nissa and others*, I N. W. P. Rep. Civ. Ap. 224.

On the 13th March 1850, A executed an instrument, which on the face of it purported to be an absolute bill of sale of certain land to B in consideration of Rs. 39,500. On the same day B executed to A an agreement, importing that on payment of the sum of Rs. 39,500 with interest

at twelve per cent. per annum on 13th March 1851, the sale should be void—the effect of these two instruments, being simply to create a mortgage by *bai-bil-wafâ* or conditional sale. By a *third* instrument, dated 12th March 1850, A granted a lease of the same land for three years ostensibly to C, the son of B. Under the terms of this lease C, after discharging the Government revenue and other charges, was to pay to A, his lessor, for the first year of the term Rs. 2,000; for the second year Rs. 2,332; and for the third year Rs. 2,399. It appeared from the agreement (the second instrument) that A had authorized C to pay B by instalments, out of the rent reserved in the lease, Rs. 2,101 in part satisfaction of Rs. 4,740, being one year's interest on the principal Rs. 39,500, and payable on 13th March 1851. It was not contested that the lease was a *benamí* one, B being the real lessee and obtaining possession of the mortgaged premises under colour of this lease. In April 1851, the mortgage-money not having been paid, B commenced proceedings to foreclose, which terminated in his favour on the 31st August 1852. With respect to these proceedings, taken under Reg. XVII of 1806, the Privy Council, having set forth what was, in their Lordships' apprehension, the law of foreclosure as established by the Regulations and the practice of the Courts in Bengal, observed as follows:—

"The general effect of these Regulations is, that if anything be due on the mortgage, and the mortgagor makes an insufficient deposit, and *á fortiori* if he make no deposit at all, the right of redemption is gone at the expiration of the year of grace. *The title of the mortgagee, however, is not even then complete.* It was ruled by the Circular Order of the 22nd July 1813, No. 37, and has ever since been settled law, that the functions of the Judge under Reg. XVII of 1806, s. 8, are purely ministerial, and that a mortgagee, after having done all that this Regulation requires to be done in order to foreclose the mortgage and make the conditional sale absolute, must bring a regular suit to recover possession or to obtain a declaration of his absolute title if he is in possession. In that suit the mortgagor may contest on any sufficient grounds the validity of the conditional sale or the regularity of the proceedings taken under the Regulation in order to make it absolute. He may also allege and prove, if he can, that nothing is due or that the deposit (if any) which he has made is sufficient to cover what is due: but the issue, in so far as the right of redemption is concerned, will be whether anything at the end of the year of grace remained due to the mortgagee, and if so, whether the necessary deposit had been made. If that is found against the mortgagor, the right of redemption is gone." On the 28th January 1853, B instituted the regular suit above shown to be necessary in order to the completion of his title. In his defence to this suit A pleaded, among other things, that B was bound to render accounts in order that the Court might be satisfied how much was due and from whom. The District Judge having found that B was in possession under colour of the lease, the Sádr Díwání Adálat held on appeal that B was bound, before he was entitled to have his conditional sale made absolute, to render accounts and to show that the loan had not been liquidated with interest from the usufruct of the property. The case was therefore remanded for the production of the mortgagee's accounts. The Privy Council decided on appeal that, under the above circumstances, the default of the mortgagee in not producing the accounts could not prejudice his right to have the conditional sale made absolute, it being clear that when the foreclosure proceedings were commenced almost the whole of the loan was unpaid. It was observed as follows:—

Function of a Judge under the Regulation purely ministerial.

Regular suit necessary to complete title by foreclosure.

"The order of remand can be supported only on the principle that in all cases it is imperative on a mortgagee, who has been in possession, to produce his accounts. For this position their Lordships can find no grounds in the Regulations. The words of the third section of Reg. I of 1798, from which (if at all) an inflexible obligation to produce accounts must be inferred are—"In all instances wherein the lender on a bai-bil-wafâ may have been put in possession of the

land, and *an adjustment of accounts may consequently become necessary between* him and the borrower, the lender is to account," &c. Two conditions are expressed, the possession of the mortgagee and the necessity of an account. And a comparison of this with the preceding section and with Reg. XVII of 1806 shows that *that* necessity arises and need only arise, *first*, when the mortgagor has deposited the principal, leaving the question of interest to be settled on an adjustment of the account; *secondly*, when he has deposited all that he admits or alleges to be due; *thirdly*, when he pleads and undertakes to prove that the whole of the principal and interest has been liquidated by the usufruct of the property." Their Lordships having examined the decided cases were of opinion that their authority was in no respect opposed to the above view. The appeal was therefore allowed on the ground that the Court below had erred in dismissing the suit (after B on remand failed to produce the accounts) on the assumption that the production of any accounts was necessary in a case in which there was neither plea nor proof that the usufruct had liquidated principal and interest, and no deposit had been made to cover the balance admitted to be due—*A. J. Forbes* v. *Amirunissa Begum*, X Moo. In. Ap. 340, also I Ind. Jur. N. S. 117. In the case of *Ram Lochun Patuk and others* v. *Babú Kanhya Lal and others* (VI W. R. Civ. Rul. 84 and II R. C. & C. R. Civ. Rul. 94) there was an allegation that the principal and interest had been liquidated by the usufruct of the property and the production of accounts was therefore held necessary, the case being distinguished from *Forbes* v. *Amirunissa* by this allegation.

With reference to the remark in the above judgment as to the title of the mortgagee not being complete on the termination of the foreclosure proceeding, it will be well to notice two cases decided by the High Court of the North-Western Provinces. In the case of *Khúb Chand* v. *Lila Dhar* (IV N. W. P. Rep. Civ. Ap. 103) that Court said—"With regard to the first plea, we hold that if the defendants were in possession at the expiry of the year of grace, it was not necessary for them to bring a suit for possession to complete their title. This is the rule which has been established in the case of *Thakur Persad*, 18th June 1862, and in the case of *Tara and others*, *appellants*, 20th April 1867. This being so, the limitation period should be computed from the expiry of the year of grace, if the defendants were then in possession." In the case of *Jeorakhun Singh and others* v. *Hikam Singh and others* (V N. W. P. Rep. Civ. Ap. 358) the mortgagees had taken the proceedings required by Reg. XVII of 1806 to make the conditional sale absolute. After the expiry of the year of grace they instituted a suit to obtain possession *with mesne profits from the date at which the foreclosure proceedings terminated.* It was contended that they were not entitled to such profits, as their right to the property had not become perfect and complete until they had obtained a decree for possession, and in support of this contention the observations of their Lordships of the Privy Council in the above case were referred to. The High Court, after going carefully into the whole question, and referring to the Circular Order above quoted and other similar orders, did not understand their Lordships to rule that the absolute right of the conditional purchaser had not accrued to him at the conclusion of the proceedings taken under the Regulation or that it is not (if these proceedings were regular) to be referred back to that period; but to rule that a conditional purchaser, if out of possession, cannot obtain possession by summary application to the Judge before whom the foreclosure proceedings were held, but that he must proceed by a regular suit; and that in like manner, if he is in possession at the termination of the foreclosure proceedings, and finds it necessary to indicate his title, he must do so by regular suit. A decree for *mesne* profits was therefore given. The entire judgment may well be referred to as being an important one. In the case of *Lutf Hosen and another* v.

Is a regular suit necessary, if the mortgagee be in possession?

Mesne profits after the expiry of the year of grace.

Abdúl Ali and others (VIII W. R. Civ. Rul. 476) it was decided by the Calcutta High Court that the conditional sale having been duly foreclosed and more than twelve years having elapsed from the expiration of the year of grace, the right of redemption was lost.

The case of *Mohan Lal Súkul* v. *Goluk Chandra Dutt and others* may be usefully traced through all the stages of a protracted litigation for the purpose of illustrating several points connected with the law of mortgage. By two zillah decrees, dated 31st December 1855 and 9th December 1857, the mortgagors were declared entitled to redeem without making any payment, on the ground that the mortgagees in possession had fully paid themselves by receipt of rents and profits. These decrees were in 1859 reversed on appeal by the Sádr Díwání Adálat on the ground that the equity of redemption had been barred by foreclosure. The Privy Council decided that none of the above decrees could be supported, remarking that the Zillah Courts in coming to their conclusion as to the state of the accounts seemed to have proceeded *not upon proof of the actual collections which were or ought to have been made by the mortgagees*, but upon materials which were in a great measure speculative and conjectural, and that there had been no such trial of the question of foreclosure as the law (which prescribed the statement of formal issues) and indeed substantial justice required. When the mortgagees filed their notice of foreclosure, they had notice that the interest of the original mortgagor had been taken in execution, and were disputing in a summary suit the decree-holder's right to put up that interest for sale. Their Lordships of the Privy Council observed that under these circumstances notice should have been served upon the decree-holders, it being clear upon the authorities that, if the sale had taken place before notice of foreclosure was filed, such notice to be effectual must have been served upon the purchaser. The case was remanded for a proper trial of the question of foreclosure and for the taking of proper accounts—X Moo. Ind. Ap. 1. In a subsequent stage the case came before the Calcutta High Court, who observed that *jama-wásil-báki* papers, although they might strongly support the account required by S. 3, Reg. I of 1798, were not and could not be the account itself, which must be an account setting forth what the mortgagee had realized—from what portions of the mortgaged property—in what terms or periods—with what loss or gain on the several assets—with what necessary reductions—and what remained as the net profits which could be taken as actual realizations towards liquidating the sum due under the mortgaged transactions—V W. R. Civ. Rul. 271. For further discussion as to the accounts to be rendered by the mortgagee, and as to whether redemption can be decreed while there is a balance due, upon payment of such balance, see the same case at IX W. R. Civ. Rul. 572. The opinion of the senior Judge decided the latter point in the negative.*

Mortgagor entitled to Accounts from mortgagee in possession.

A mortgagor is entitled to an account from the mortgagee even though it be expressly stipulated in the mortgage deed that the latter shall not be liable to account, and a mortgagor (by *zur-i-peshgí* lease) can sue to recover possession of his lands before the expiry of the term fixed by the lease on the ground that the mortgage-debt has been satisfied by the mortgagee's receipts while in possession—*Panjam Singh* v. *Mussamat Amína Khatún*, VI. W. R. Civ. Rul. 6, and II R. C. & C. R. 18 (In this case the mortgage contract was entered into before the passing of Act XXVIII of 1855). In a suit for redemption and mesne profits on the allegation that the mortgagee in possession had collected more than he was entitled to, the mortgagee failed to produce proper accounts. *Held* that the plaintiff, mortgagor, could not succeed without some evidence, but that a small amount of legal proof would justify a decree in his favour—*Syud Hashun Ali* v.

* See also Macpherson on Mortgages, 5th Ed. p. 172, and *Shah Kundun Lall and another* v. *Susta Kooer and another*, VIII W. R. Civ. Rul. 369 (in this case a conditional decree was given).

Babú Ramdharí Singh and others, VII W. R. Civ. Rul. 82. The mortgagee not having filed proper accounts, it was observed that the accounts put in by the mortgagor, necessarily imperfect and compiled by guess, could not conclude the mortgagor or shift to him a liability placed by the law upon the mortgagee—*Púnít Upadhya* v. *Shah Amínudín*, IV R. C. & C. R. Civ. Rul. 183.

A conditional sale may, by the agreement and acts of the parties, become absolute without proceedings under the Regulation—*Gúrdial and others* v. *Mussamat Hanskunwar*, II N. W. P. Rep. Civ. Ap. 176, followed in *Raghonath Dass* v. *Ram Gopal*, V N. W. P. Rep. N. S 29.

If the mortgagee take away the money deposited by the mortgagor, he will be estopped from suing for possession afterwards on the ground that the money was not deposited until after the expiry of the year of grace—*Khundkar Nawazish Hosen* v. *Wasalanissa Bibí and others*, VI B. L. R. Civ. Rul. 249.]

REGULATION XIX OF 1810.

A REGULATION *for the due Appropriation of the rents and produce of Lands granted for the support of Mosques, Hindú Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kuttras and other public Buildings; and for the custody and disposal of Nuzúl property or Escheats.*—PASSED *by the Governor-General in Council on the* 14*th December* 1810.

Preamble.

Whereas considerable endowments have been granted in land by the preceding Governments of this country and by individuals for the support of [mosques, Hindú temples,] colleges, and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of bridges, *sarais*, *kuttras* and other buildings, which have been erected either at the expense of Government or of individuals for the use and convenience of the public; and also to establish proper rules for the custody and disposal of *nuzúl* property or escheats—the following rules have been enacted to be in force from the period of their promulgation throughout the provinces immediately dependent on the Presidency of Fort William.

[So much of this Regulation as relates to endowments for the support of mosques, Hindú temples or other religious purposes, was repealed by s. 1, Act XX of 1863.

Such portions as require that the Board of Revenue and Board of Commissioners shall provide, with the sanction of Government, for the due repair and maintenance of public edifices, such as bridges, *sarais*, *kuttras*, were repealed by s. 16, Reg. XVII of 1816, which however leaves the general superintendence of lands assigned as endowments for such edifices vested as before in these Boards. See however ss. 17, 18 and 19, Reg. XVII of 1816.]

II. The general superintendence of all lands granted for the support of [mosques, Hindú temples,] colleges and for other [pious and] beneficial purposes; and of all public buidings, such as bridges, *sarais, kuttras* and other edifices, is hereby vested in the Board of Revenue and Board of Commissioners in the several districts subject to the control of those Boards respectively.

The general superintendence of lands granted for the support of mosques, &c. and of bridges, *sarais* and other public buildings vested in the Board of Revenue or Board of Commissioners respectively.

III. It shall be the duty of the Board of Revenue and Board of Commissioners to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted. In like manner it shall be the duty of those Boards to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.

Those Boards to be careful that endowments for support of such establishments be duly appropriated, and that public edifices be duly repaired.

IV. In those cases however in which any of the buildings in question have fallen to decay and cannot from that or other causes be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the Boards shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Buildings fallen to decay or not calculated to be useful if repaired, how to be disposed of.

V. Under the foregoing rules it will of course be incumbent on the Board of Revenue and Board of Commissioners to prevent any lands, which have been granted for the support of establishments of the above description, from being converted to the private use of individuals or appropriated in any other mode contrary to the intent and will of the donor, and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

Those Boards to be careful that lands or public edifices are not appropriated by individuals for private uses.

VI. Whenever the Board of Revenue and Board of Commissioners may be of opinion that any of the abovementioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work and forward them to Government for its approval.

Estimates of necessary repairs to be submitted to Government.

[See note to S. 1.]

VII. The general superintendence of all *nuzúl* property or escheats is likewise hereby vested in the Board of Revenue and Board of Commissioners

The general superintendence of *nuzul*

property vested in those Boards.

respectively, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

[*Nuzúl* = Descent—property which goes to the State from default of heirs, an escheat.

The only evidence of certain property being *nuzúl* was that it was entered in a registry of *nuzúl* lands made in 1842. It was not so entered in similar lists made in 1810 and 1813. B had been since before 1841 in possession of houses, shops, &c. erected on the land. No rent was ever demanded by the Government, nor were there any acts of ownership or other assertion of right on the part of Government up to 1865, when a certain sum of money was fixed on the land, on the ground that it belonged to the *nuzúl* fund, and B was served with a notice that, if he did not pay within a month, the land and house would be sold. *Held* that B was entitled to be protected against this proceeding, that his long undisturbed possession was good against the antiquated claim of Government, until the Collector established the rights of Government and obtained from the Courts an adjudication of those rights, upon which he would be in a position to dispose of them in any lawful manner—*Collector of Bareilly* v. *Ghási Ram*, I N. W. P. Rep. Civ. Ap. 260.]

Local agents to be appointed to enable those Boards to carry into effect the duties hereby entrusted to them.

VIII. To enable the Board of Revenue and Board of Commissioners the better to carry into effect the duties entrusted to them by this Regulation, local agents shall be appointed in each *zillah*, subject to the authority, control and orders of those Boards respectively.

The Collector of the *zillah* to be *ex-officio* an agent, with such others as may be deemed expedient.

IX. The Collector of the *zillah* shall be *ex-officio* one of those agents, with whom the Governor-General in Council will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

[Act XXXVIII of 1837 enacted that no one should be incapable of being appointed such an agent by reason of his not being in the civil, military or medical branch of the service; but this Act has been repealed by Act VIII of 1868, save however as provided in S. 1, *id. q. v.*]

Such agents to ascertain the particulars of all endowments, buildings or *nuzúl* property, and report to the respective Boards.

X. Under the provisions of the present Regulation it will of course be the duty of the agents to obtain full information from the public records and by personal inquiries respecting all endowments, establishments and buildings of the nature of those above described, and of all *nuzúl* property or escheats; and to report to the Board, to whose authority those agents are respectively subject, any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

The agents to ascertain and report the names, &c. of the present

XI. The said agents will further ascertain and report the names together with other particulars of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether

under the designation of *mutawallí* or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rule or maxim applicable to such institutions and foundations.

trustees or managers of such institutions, and by what authority appointed.

XII. The local agents will also report to the superior Boards all vacancies and casualties which may occur with full information of all circumstances to enable the Boards to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

The agents to report to the respective Boards all vacancies or casualties which may occur with full information as to the pretensions of claimants.

XIII. In those cases in which the nomination has usually rested with the present or former Government or with a public officer, or of right appertains to Government in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose for the approval and confirmation of the superior Board a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

The agents to recommend fit persons in cases wherein the nomination is vested in or devolves upon Government.

XIV. On the receipt of the report and information required by the preceding clause, the Board of Revenue or Board of Commissioners will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.

The Boards to appoint such persons or make such other provision for the trust as they may deem fit, with reference to the conditions of the endowments.

XV. Nothing contained in this Regulation shall be construed to preclude any individual, who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the abovementioned authorities with respect to the appropriation of any lands or buildings of the nature of those above described, from suing in the mode and form prescribed by the Regulations where Government or public officers are parties, or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or

Individuals deeming themselves injured by any orders passed under this Regulation, not precluded from suing for recovery of their rights or for damages in the manner prescribed in the Regulations.

for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

The object of this Regulation is solely to provide for the due appropriation of lands granted, or buildings erected, for public purposes.

XVI. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government. In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot from that or any other cause be conveniently repaired, or which under existing circumstances can no longer contribute to the accommodation of the community.

[In connection with this Regulation must be read Act XX of 1863, which is entitled *An Act to enable Government to divest itself of the management of Religious Endowments.*[1]

A bequest for religious or charitable purposes, an appropriation of property to the service of God for the benefit of man, is in Mahomadan law termed *wakf*[2] or endowment. The trustee or person charged with effectuating the object of the endowment is termed *mutawallí*, literally, 'a person vested with authority.' To constitute a valid *wakf*, the grant must according to the Sheah doctrine be absolute and unconditional, and possession must be given of the thing granted—*Haji Kalub Hosein* v. *Mehram Bibi*, IV N. W. P. Rep. 155. The person who has the management and superintendence of an endowed Hindú temple is termed *sebáti*, or *sebait* from seba, 'service,' 'attendance on an idol.'

A *sanad* purporting to be given by Nawáb Seraj-ud-Daulah, recited that S had a large family to support and had to defray the expenses of a *khankáh* for travellers, students, mendicants, &c. and in order to enable him to meet this expenditure, granted to him certain villages at a fixed annual jamá of Rs. 896, and remitted the *abwábs* and cesses previously levied upon the said villages—*Held* that this, if it created an endowment at all, created a private and not a public one; and that therefore the provisions of Act XX of 1863 were inapplicable—*Bibi Kaniz Fatima* v. *Bibi Saheba Jan and others*, VIII W. R Civ. Rul. 313: IV R. C. & C. R. Civ. Rul. 218.

Certain villages were granted by the former Government of the country to certain pious and charitable uses, *viz.* for the support of a *khankáh* or religious house. The particular term '*wakf*' was not used in the grant; but it was held that, notwithstanding the use of the words 'inam' and 'altamgha' therein, and the mention of persons upon whose petition the grants were made, yet as these grants appeared clearly to have been made (as expressed in the petitions) for the purpose of maintaining a charitable institution, the persons named were not to be considered as proprietors, that the *khankáh* was the real donee, and that the persons named were only *mutawallís*

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[1] See the following cases:—*Ganesh Singh and others* v. *Ram Gopal Singh*, V B. L. R. Ap. 55: *Haji Kalub Hossein* v. *Mehram Bibi*, IV N. W. P. Rep. 155: *Hakim Hisam-ud-din Khan and others* v. *Khalifa Anwarúla*, II N. W. P. Rep. 400.

[2] It properly means "detention," because the property in the thing appropriated to religious or charitable purposes, having passed out of the appropriator, does not vest in any other person, but remains in a state of suspense or detention—see Hamilton's Hedaya, vol. ii, bk. xv. Though properly a term of Mahomadan law, it has come to be used also of Hindú endowments.

of the *khankáh*, *mutawallís* having no power to alienate. The villages being thus to all intents and purposes *wakf*, and having been alienated by a former superior of the *khankáh* or religious house, it was decided that a subsequent superior or mutawallí, the son of the alienor, but who was neither his heir nor personal representative in respect of the *wakf* property, was entitled to sue for the recovery of this property without being accountable for a refund of the purchase-money; that the *mutawallí* is the procurator of the donor, which in the particular case was the sovereign; and that the alienee could have acquired no rights against Government, whose procurator plaintiff was, at least until twelve years (with reference to the old law of limitation) had elapsed from his appointment—*Jewan Das Sahú* v. *Shah Kabír-u-dín*, II Moo. Ind. Ap. 390.

Documentary evidence is not indispensable in order to prove an endowment—*Muddhan Lal* v. *Kamal Bibí and others*, VIII W. R. Civ. Rul. 42, and IV. R. C. & C. R. Civ. Rul. 44.

Government resumed and settled certain land previously held as lakhiráj. It was observed that the only question decided by the Government officer in resuming the land was that those who claimed the land as *lakhiráj* had not been able to prove that it was held under any such religious or charitable trust as would debar Government from resuming it, but that this did not affect the question, whether or not the land was held on a trust as regarded a certain individual and the endowment of which he was *sebait*—*Rájáh Lílanand Singh Bahadúr* v. *Ishán Nandan Dutt Jah and another*, VIII W. R. Civ. Rul. 316.

Where property was purchased in the name of an idol who was not set up for the benefit of public worship and whom no one except the purchaser had the power or right to worship, no priests being appointed and no Bramins having any legal interest in the property, it was held that there was no real endowment so as to render the property inalienable—*Brojo Sundari Debya* v. *Lachmi Kunwari and others*, XX W. R. 95.

A claim to succeed to an endowment is not maintainable under the ordinary Hindú law of inheritance; but a claim to the management of the property may be sustained if founded on the rules of the endowment, as established by custom or practice or otherwise—*Gosaien Rai Chaundwáli Bahúji* v. *Girdharíji*, IV N. W. P. Rep. Civ. Ap. 226; and see Strange's Hindú Law, vol. i, p. 151.

The right as *sebait* to perform the service of an idol cannot be sold in execution of a decree for a personal debt of the sebait for the time being—*Jagarnáth Rai Chaudhrí* v. *Kissen Persad Surma*, VII W. R. Civ. Rul. 266, and III R. C. & C. R. Civ. Rul. 176 (distinguished from *Prannath Paurey* v. *Srí Mongula Debya*, V W. R. Civ. Rul. 176): *Kali Charan Gir Gosein* v. *Bangshí Mahan Das*, VI B. L. R. 727: *Dubo Misser* v. *Srinibas Misser and others*, V B. L. R. 617. A sebait has not the legal property, but is only the manager of a religious endowment. He has no power to alienate the land belonging thereto, or to create tenures at a fixed rent which deprive the endowment of the benefit of an augmentation of a variable rent from time to time. He may however create such derivative tenures and estates as are conformable to usage—*Maharaní Shibeshurí Debya* v. *Mathúranath Acharjya*, XIII Moo. Ind. Ap. 273. Although, as a general rule of Hindú law, property given for the maintenance of religious worship and of charities connected with it is inalienable, it is yet competent for the sebait of property dedicated to the worship of an idol, in the capacity as sebait and manager of the estate, to incur debts and borrow money for the proper expenses of keeping up the religious worship, repairing the temples or other possessions of the idol, defending hostile litigious attacks and other like objects. The power however to incur such debts must be measured by the existing necessity for incurring them. The authority of the sebait of an idol's estate would appear to be in this respect analogous

to that of the manager for an infant heir—*Prosonno Kumari Debya* v. *Golab Chand*, XIV B. L. R. 458, and XXIII W. R. 253, confirming the judgment of the Calcutta High Court to be found at XX W. R. 89. Decrees obtained honestly against a sebait for such debts, and alienations made by him for such purposes of necessity will therefore be binding on his successors—see the cases last quoted, and *Kissonand Ashram Dandí* v. *Narsingh Dass Beiragí*, Marsh. Rep. 485: *Tayabanissa and others* v. *Kúwar Sham Kishorí Rai*, VII B. L R. 621.

As to property which is the subject of an endowment being impartible—see an anonymous case in II Sev. 316, and *Banwari Chand Thakur and others* v. *Maddhan Mohan Chattoraj*, XXI W. R. 41.

Interference of Civil Courts in cases of breach of trust and mismanagement.

A executed a *tauliyatnama* or deed of appropriation of one-third of his property, real and personal, to found a charity for the distribution of alms to *fakírs*, and appointed certain of his heirs as trustees of the endowment. B sued for possession of the property constituting the trust, and to displace the heirs of the original trustees on the ground that they had failed to use the proceeds of the property as directed, and had therefore forfeited the right to be continued in charge of the trust. *Held* that the Civil Courts have no jurisdiction to entertain such a suit—such jurisdiction not being conferred by the Legislature (by anything in Reg. XIX of 1810) or by the Mahomadan law, and the contention being untenable that the Civil Courts, as Courts of equity and good conscience, could interfere to displace these trustees as faithless to their trusts—*Múnshí Heider Alí* v. *Shamsánissa Begum*, II Sev. 585. But in the case of *Sagarúnissa Begum* v. *Múnshí Gholam Ali*, II Sev. 679, which was a suit by the heir of one of the persons who created the endowment to remove the *mutawallí* or manager from his post, to recover part of the property sold by him and to place plaintiff in charge of all the trust property, the Court after examining the Mahomadan law on the subject said it was clear that mismanagement was a good ground for interference by the Courts, and although *wakf* property is not deemed a subject of inheritance, yet persons of the founder's kin would be entitled to sue a manager who was wasting the property, and if qualified themselves might have a claim to succeed the disqualified person in the management and to manage the trust in conformity with the founder's intention. Subsequently the Court having examined the deed creating the endowment were of opinion that, *without laying down any general rule on the subject*, the interference of the Civil Court was justified by the terms of the deed—see the precedents here collected by the Reporter (Sevestre) on the subject of endowments. See also—as to the removal of a superintendent of a Mahomadan endowment who misconducts himself—*Hedayatanissa* v. *Afzal Hosen and others*, II N.-W. P. Rep. 420. In *Imdad Hosen* v. *Ali Khan* (XXIII W. R. 150) a mutawallí, who was guilty of waste, was ordered to file in Court every six months a true and complete account of income, expenditure and dealing with the endowed property. Where there had been an absolute gift of property to a *math* for charitable purposes without any reservation, it was laid down that, if the objects of that endowment had not been carried out by the person whose duty it was to carry them out, the property could not be resumed by the heir of the original donor, but he or some other person interested and authorized by law might take proper steps for bringing back the property and securing the profits of it to the objects of the endowment—*Nam Narain Singh* v. *Ramún Paurey and others*, XXIII W. R. 76.

A, a Hindú, by a *wakfnama* or deed of endowment, dedicated certain property to the worship of an idol and the maintenance of the temple and grounds, and appointed B, his sister, manager and *mutawallí* of the endowment, authorizing her to appoint her successor who was to appoint the next incumbent, each mutawallí having the power to appoint his successor. B died without

having made any appointment—*Held* that the managership reverted to A and his heirs—*Jai Bunsi Kunwar* v. *Chattardhari Singh*, V B. L. R. 181. Where the deed of endowment authorized the *mutawallí* to conduct the affairs of the charity personally or by an agent or deputy, it was held that the agent appointed by one *mutawallí* could not claim to hold office under his successor, the mutawallí for the time being entitled to appoint his own agent—*Shah Mahí-ud-dín Ahmed* v. *Elahí Buksh and others*, VI W. R. Civ. Rul. 277.

A Hindú monastery or building, where religious mendicants reside under a mahant or superior, is termed *math* which in all probability originally meant 'a hermit's cell.' In the case of *Gosein Daulat Gir* v. *Bissessur Gir* (XIX W. R. 215) the law relating to *maths* and the devolution of property belonging thereto is thus explained:—"In most of the many sects, into which the followers of Hindúism are divided, there apparently exists a clerical class, which is commonly separated into two orders, namely (in European phraseology) the monastic or ascetic, and the secular. The first of these is celibate and in a great degree erratic and mendicant, but has anchorage places and head-quarters in the maths. The typical math consists of an endowed temple or shrine with a dwelling-place for a superior (the mahant) and his disciples (chelas). The endowment of a math is either the result of private dedication, or is a grant made by, and the institution itself is a kind of offshoot from, an already existing wealthy math. The property is not generally very large, though in exceptional cases it is so, and in some maths the mahants either by declining from the strict path of sanctity originally marked out for them, or even in prosecution of the founder's purpose, make the acquirement of wealth by trade their great object; and, where the math possesses any special element of popularity, the daily offerings and alms given by the pious in the shape of rice, dhal, plantains, &c. afford alone a sufficient source of maintenance. By devoting himself to a religious life the mahant probably severed himself from all such worldly possessions as he might otherwise be entitled to as an ordinary member of society. He became thenceforward theoretically dead to the world, and even if he afterwards irregularly continues in the enjoyment of such property, it would on his actual death go to his personal heirs (S. D. A. 1853, p. 1089). But it is otherwise with regard to the property of the mahantship or math. The Hindú law recognizes a special devolution of the property belonging to a math upon the occasion of the death of the mahant. The general principle applicable to different cases of religious devotees is to be found in the Mitakshara, ch. iv, s. 8, slokas 1—6, and the reason for it is somewhat quaintly explained in slokas 7 and 8. The principle, however, so far as it affects *maths*, is shortly this, namely 'a virtuous pupil takes the property,' and the same maxim of law is given in the Vyavahra Mayakha, ch. iv, s. 8, cl. 28; Dayabhaga, ch. xi, s. 6, sloka 35, and Cole. Dig. bk. 5, ch. viii, s. 2, text 458—all these commentaries attributing the original precept to Yajnawalkya. But the particular mode in which the *virtuous* pupil, *i.e.* not merely a chela, but a shishya fittest to succeed is ascertained or selected, is matter either of express direction on the part of the founder or of custom in the case of each foundation—(see cases quoted at length in Shama Churn Sircar's Vyavastha Darpana, 327, *et seq*, and Marsh, 581.) There are instances of maths in which the mahantship descends to a personal heir of the deceased, and others in which the existing mahant alone appoints his successor (*Giridhari Dass* v. *Nandokisore Dutt*, Marsh. 573); but the ordinary rule is that the maths of the same sect in a district, or maths having a common origin are associated together,—the mahants of these acknowledging one of their numbers (who is for some reason pre-eminent) as a head—and, on the occasion of the death of one, the others assemble to elect a successor out of the chelas or disciples of the deceased, if possible, or if there be none of them qualified, then from the chelas of another mahant. After the election the chosen disciple is installed on the *gadí* of

Law relating to Maths or Hindú Monasteries.

his predecessor with much ceremony (Religion of Hindús, H. H. Wilson, 51.) In the present case the plaintiff by his guardian alleges that he is the duly constituted successor to one Buldeagir deceased, lately mahant of math Ruttenpúra; he complains that the defendant wrongly obtained a certificate of administration of the math property on the death of Buldeagir, and he seeks to recover that property from him. The defendant denies that the plaintiff is rightful successor to Buldeagir as alleged. It appears that several successions to the mahantship of Ruttenpúra have taken place within a not very lengthened period of years, but no evidence has been given by either party tending to show any rule according to which the appointment or selection of the successor on each occasion has in fact been made. In form, the main issue which has been framed between the parties is exceedingly simple, namely 'Is the plaintiff the chela or disciple of the late Buldeagir'? and this does not at first sight seem to necessitate an inquiry as to the proper mode in which a successor to the mahantship should be constituted, and no such inquiry has been made at this trial. Yet a little consideration leads to the conclusion that the parties are disputing not only as to whether the plaintiff was ever made a chela of Buldeagir at all, but also as to whether, if so made, he was made or had become such a chela as to be entitled to succeed his late master in the mahantship. Indeed the first and principal question which appears to arise in this suit is, what, if any, is the rule prescribed by the founder of the math; and if none, what is the custom or usage followed at this math, in regard to the selection and appointment of a successor to a deceased mahant." The case was accordingly remanded for the trial of these issues.

The case of *Gridhari Das Mahant* v. *Nandokishore Das Mahant* above referred to afterwards came before the Privy Council. It turned on the construction of a will made by a mahant, and it was remarked that the only law as to mahants their offices, functions and duties is to be found in custom and practice, which is to be proved by testimony, XI Moo. Ind. Ap. 405.[1]

A mahant set up a pretended deed of gift to himself of the endowed lands, and under this pretended title granted certain leases—*Held* that these leases fell with the title of the lessor, who granted them expressly under the title created by the deed of gift which was set aside—*Sheo Sankur Lal* v. *Dharmjai Paurai, &c.* IV R. C. & C. R. Civ. Rul. 187.]

REGULATION XX OF 1810.

A REGULATION *for subjecting persons attached to the Military Establishments to Martial Law in certain cases and for the better government of the Retainers and Dependents of the Army receiving public pay on fixed establishments and of persons seeking a livelihood by supplying the troops in Garrison, Cantonment and Station Military Bazârs, or attached to Bazârs of Corps.*—PASSED *by the Governor-General in Council on the 29th December* 1810.

Preamble.

By the respective Articles of War for the Government of His Majesty's and the Honorable Company's troops, all retainers to a camp and all persons what-

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[1] See also the following important cases connected with maths:—*Kashi Bashi Ram Ling Swami* v. *Chitambernath Kumar Swami* (Tírpuntal), XX W. R. 217: *Muttu Ramalinga Setupati* v. *Perianayagum Pillai*, I L. R. I. A. 209, and the cases collected in Norton's Leading Cases on the Hindú Law of Inheritance, part II, 591, *et seq.*

ever serving with the forces in the field though not enlisted soldiers are to be subject to orders according to the rules and discipline of war. From the great number of native retainers and followers attached to military establishments in India and the importance of a prompt and orderly discharge of their duties to the welfare of the troops, it is necessary that the principle of this Article of War should be extended to other cases than that of actual service in the field to which it is at present confined, and that it should be applied under certain restrictions to the maintenance of a proper discipline among the retainers of the army at all times. By Regulation III, 1809 the support of the police and the maintenance of the peace within the limits of cantonments and military *bazárs* are vested in the Officers commanding the troops quartered at such places; but the powers of Commanding Officers under that Regulation are restricted to such measures as may be calculated for the prevention of crimes and the apprehension of persons committing them, and they are prohibited from interfering in cases of petty breaches of the peace and other offences of inferior magnitude, unless where the parties are taken in the fact—the cognizance of these offences, as well as those of greater magnitude being expressly reserved to the Magistrate by that Regulation. As however it will further tend to the maintenance of good order to subject the retainers and dependents of the army to punishment for petty offences by a military tribunal, it has been deemed expedient to transfer the cognizance of such cases, under the restrictions and in the mode hereafter mentioned, to Courts Martial to be assembled for that purpose by Commanding Officers; and it has further been deemed expedient for the ease and security of dealers and for encouraging their resort to military *bazárs*, to vest in military Courts to be assembled by Commanding Officers a power of enforcing the payment of small debts and of deciding on the spot in petty causes of a civil nature arising between officers, soldiers or retainers of the army, and persons carrying on trade in military *bazárs*, or between such retainers or traders.—The Governor-General in Council has therefore been pleased to enact the following rules.

Certain description of persons serving with the army, and receiving public pay, subject to trial by Courts Martial for breach of duty or offences against good order or local regulations in the cantonments or stations to

II. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as *lashkars*, magazine men, *khalassís* attached to magazines or any other department or establishment, native doctors, writers, *bihishtís*, *pakhálís*, *saises*, grass-cutters, *maháwats*, *sarbáns* or other subordinate servants attached to public cattle, *bíldárs*, artificers, or in any other capacity, shall (provided they are borne upon the fixed establishment of the department in which they are employed, and not otherwise) be subject to be tried by a Court Martial for all breaches of their respective duties and for all disorders and neglects to the prejudice of good order and of the local regulations established by the Commanding

which they are attached.

Officer or other competent authority in the cantonment, garrison, station or other places where the troops to which they are attached may be serving.

Limitation of punishment awarded by Courts Martial in such cases.

III. Provided that it shall not be competent for such Court Martial to sentence any persons of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers under the 2nd Article of the 24th section of His Majesty's Articles of War, unless where the forces are serving in the field, for which case provision is already made by the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.

Menial servants of the officers, though not receiving public pay, liable to trial by Courts Martial for breaches of the local regulations established in cantonments or stations.

IV. Menial servants of officers within the precincts of any cantonment, garrison or military station or military *bazár*, although they shall not be in the receipt of public pay, shall at all times be subject to all such regulations as shall be made by the Commanding Officer or other competent authority for the maintenance of good order in such cantonment, garrison, station or *bazár*, and shall be liable to be tried by a native Court Martial for any breach thereof.

Plans where to be deposited.

VI. The plans shall be prepared in quadruplicate and signed by the Commanding Officer and the Magistrate of the district. One copy shall be deposited at the head-quarters of the station, another at the *kachahrí* of the Magistrate; and the other two shall be transmitted to the Commander-in-Chief, by whom one copy will be forwarded to Government.

The names of certain persons residing within the limits of cantonments, &c. to be registered in the office of the brigade-major or other officer.

VII. The names of all persons having houses, shops or other buildings or fixed places within the limits of the garrison, cantonment or station as described in the plans, in which they carry on trade or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a Register to be kept in the office of the Brigade-Major or other Station Staff Officer and to be open to inspection at all reasonable hours. The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it in like manner with the place of his residence and the date of the registration.

Rules as to such registered persons.

VIII. No person shall be registered as attached to the station *bazár* without his free consent, and any persons so registered shall be entitled at any time to demand his discharge from the registry. Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above mentioned, and shall be subject during such time to all regulations made by the Commanding Officer or other

competent authority for the maintenance of good order and fair dealing in the station *bazár*, and shall be liable to be tried by a native Court Martial for any breach thereof.

IX. The names of all persons attached to *bazárs* of corps shall in like manner be registered in a book, which shall be kept at the head-quarters of the corps and shall be open to inspection at all reasonable hours. The entries shall be made in the same manner in all respects as those in the registers of station *bazárs*.

Persons attached to *bazárs* of corps to be registered in a book at head-quarters.

X. No person shall be registered as attached to the *bazár* of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge, except when the corps is on actual service or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the Commanding Officer to withhold such discharge so long only as the immediate exigency of the public service requires.

Rules as to such persons.

XI. No person registered as attached to the *bazár* of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered within the place allotted or commonly used for the *bazár* of the corps when it is stationary.

What persons are entitled to to the privileges of such registry.

XII. All persons registered as attached to *bazárs* of corps shall, while they continue so attached, be subject to such regulations as shall be made by the Commanding Officer or other competent authority for the maintenance of good order and fair dealing in the *bazár*, and for the prompt and efficient execution of such services as belong to their respective occupations.

Such registered persons liable to local regulations and to trial by Courts Martial for a breach of them.

XIX. In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonments, military station or military *bazár* (the process of the Supreme Court only excepted), the officers entrusted with the execution of such process of arrest shall in the first instance carry the same to the Commanding Officer or, if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station; and the Commanding Officer or such senior officer, upon such process being produced to him, shall back the same with his signature and shall forthwith use his utmost endeavours to cause the person or persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station or *bazár*, to be arrested and delivered according to the exigency of the process to the civil officer charged with the execution thereof; but nothing herein contained is to be construed to prevent the service by the civil officer in the usual way, of summonses, subpœnas or other process of mere citation without arrest.

How process of arrest either civil or criminal is to be executed within the limits of military stations.

Such rule not to extend to the service of process short of arrest.

What description of military stations those rules are for the present confined to.

XX. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations or military station *bazárs*, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station *bazárs* are to be considered as applicable only to those garrisons, cantonments and stations, the limits whereof shall be laid down in plans approved and confirmed by the Governor-General in Council in the manner described in section 5 of this Regulation; and they shall be in force in such garrisons, cantonments and military stations respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the *kachahrí* of the Magistrate in the manner prescribed in section 6. With regard to those garrisons, cantonments or stations to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provision will be made hereafter according to the circumstances of each case. In the mean time the provisions of Regulation III of 1809 are to be considered as in full force with respect to those garrisons, cantonments and military stations and the station *bazârs* attached thereto.

By whom Courts Martial are to be convened for the purposes specified in this Regulation.

XXIII. The Courts Martial and other Military Courts authorized to be holden by the provisions of this Regulation are to be convened by officers commanding stations, garrisons or detachments as the case may be; and, when single corps are employed in separate or detached situations, by the Officers commanding the corps so detached.

No process of arrest before judgment to issue from the Civil Courts, unless in cases exceeding 200 rupees. Rules in cases exceeding that amount.

XXIV. No process of arrest before judgment shall issue from any Civil Court in any action against a person residing or carrying on any trade or occupation relating to the service or supply to the troops at any house, shop or fixed place within the precincts of a garrison, cantonment or military *bazár*, unless it be averred in the plaint that the cause of action exceeds sicca rupees two hundred or that the defendant though resident or carrying on such trade or occupation within the military limits is not registered, or that though registered he has not within the space of three months preceding truly and *bonâ fide* exercised the occupation in respect of which he is registered within the limits. In all cases where such averment shall be made, the Judge issuing the process shall endorse upon it, as the case may be, "cause of action above sicca rupees two hundred," or "defendant not registered," or "defendant not entitled to privilege of registry," and shall sign the endorsement. All process so endorsed shall, if the defendant be within the limits of the garrison, cantonment or military *bazár* be delivered in the first instance to the Commanding Officer and be executed through him as in other cases: but, if the defendant be found without the limits

of the garrison, cantonment or military *bazár*, he may be arrested by the civil officer on process so endorsed; and in all cases of such arrests, whether made within or without the limits, if at the trial the plaintiff shall not prove according to the purport of the endorsement, either that the cause of action exceeds sicca rupees two hundred, or that the defendant though resident or carrying on such trade or occupation as abovementioned within the military limits was not registered, or that though registered he had not during the space of three months preceding truly and *bonâ fide* exercised the trade or occupation in respect of which he is registered within the limits, he shall be non-suited with costs.

Similar rules as to persons attached to the *bazár* of corps.

XXV. No person registered as attached to the *bazár* of a corps and *bonâ fide* carrying on the trade or occupation in respect of which he is registered in the place allotted or ordinarily used for the *bazár* of the corps shall be liable to be arrested on process before judgment out of any Civil Court for any cause of action not exceeding sicca rupees two hundred. In all cases, in which persons of this description are arrested by civil process, it shall be declared in the plaint that the cause of action does exceed sicca rupees two hundred, in which case the Judge shall endorse on the process "cause of action exceeding sicca rupees two hundred," and shall sign the endorsement; and, if the plaintiff at the trial of the cause shall not prove a cause of action exceeding sicca rupees two hundred, he shall be non-suited with costs; and in case any person, registered as attached to the *bazár* of a corps and *bonâ fide* carrying on the occupation in respect of which he is registered within the limits allotted or ordinarily used for the military *bazár*, shall be arrested under civil process which is not so endorsed, the Commanding Officer, if he shall after due inquiry be satisfied that such person was so *bonâ fide* carrying on the occupation in respect of which he is registered within the limits aforesaid, shall make out and sign a certificate in the following form:—

"I ——— Commanding Officer of ——— do hereby certify that ——— of ——— was registered on the ——— day of ——— in the year ——— as a person attached to the *bazár* of the corps in the occupation of a ——— and that he did at the time of his being arrested on the ——— day of ——— last, actually and *bonâ fide* follow that occupation as a person attached to the *bazár* of the corps within the space allotted or ordinarily used for the *bazár*."

Upon such certificate signed by the Commanding Officer being produced to the Judge who issued the process, he shall cause the same to be recorded in his *kachahrí* and shall make an order for releasing the person arrested from confinement; but the plaintiff shall be at liberty, if he thinks fit, to proceed in his action and shall be bound to prove at the trial, either that the cause of

action exceeds sicca rupees two hundred, or that the defendant was not registered as attached to the *bazár* of the corps, or that although registered he was not actually and *bonâ fide* carrying on the occupation in respect of which he was so registered at the time of the action brought, and in failure of such proof he shall be non-suited with costs.

Commanding Officers not authorized to dispossess proprietors of land or houses, within the limits of military *bazárs*. Rules as to lands the property of Government within those limits.

XXVI. Nothing in this Regulation is to be construed to give any authority to Commanding Officers to dispossess proprietors of land or houses which may be situated within the limits of military *bazárs*, although such persons shall refuse to be registered as attached to the *bazár*, or shall have lost or forfeited or resigned their privilege of registry. In all cases in which the ground allotted to those *bazárs* or any part of it is the property of Government and the occupation of individuals has been declared by Government merely permissive, the Commanding Officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor-General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government, which regulations shall in all cases be reduced to writing and shall after receiving the approbation of the Governor-General in Council be published in station orders, with a translation in the language commonly used in the district, and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station *bazár*.

REGULATION XI OF 1811.

A REGULATION *for extending the period fixed by the existing Regulations for Revising the Jamá on Lands ordered to be divided into two or more estates.*—PASSED *by His Excellency the Vice-President in Council on the 20th August* 1811.

Preamble.

Whereas it is declared by section 25, Regulation XXV, 1793, extended to Benares by section 2, Regulation XXVI, 1795, and re-enacted for the Ceded and Conquered Provinces by section 55, Regulation XXVI, 1803, in regard to the allotment of the public *jamá* on lands ordered to be divided into two or more estates, that "if it shall be proved to the satisfaction of the Governor-General in Council within three years after the parties may have been put in possession, that the *jamá* was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the *jamá* upon the several estates into which it may have been divided, &c." and whereas the security of the public revenue requires that the said period of three years should be extended—the following rules have been enacted to be in force

from the period of their promulgation throughout the provinces immediately dependent on the Presidency of Fort William.

[Section 1, Act XIX of 1863 (which consolidates and amends the law relating to the partition of estates paying revenue to Government in the North-Western Provinces) enacts that this Regulation except in so far as it repeals any other Regulation or Act shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal.]

On proof of fraud or material error within ten years subsequent to any future allotment, Government may order a re-allotment of the *jamá*.

III. Should it be proved to the satisfaction of the Governor-General in Council, that any fraud or material error has been committed in the allotment of the *jamá* on lands ordered to be divided into two or more distinct estates from and after the date of this Regulation, within the term of ten years subsequent to the period at which such division and allotment may have been made, it shall be competent for the Governor-General in Council to order a re-allotment of the *jamá* on the principles established by the existing Regulations.

The period of ten years to be calculated from the date of the confirmation of the allotment by the Board of Revenue, or Board of Commissioners.

IV. *First.* The period of ten years shall be calculated from the date on which the partition of the lands and allotment of the *jamá* may receive the confirmation of the Board of Revenue or Board of Commissioners, according as the lands may be situated in the districts subject to the control of those Boards in all matters connected with the land revenue respectively; and no such partition and allotment is to be considered to be final or valid (as is in substance provided by the existing Regulations) until it shall have been formally and expressly sanctioned by one or other of those authorities.

Táhuds and engagements not to constitute distinct estates, until sanctioned by Government or the Boards.

Second. In like manner *táhuds* executed for portions of estates and the correspondent engagements shall not be considered to constitute distinct estates, until the acceptance of them shall have been formally and expressly sanctioned by the Government or the Board of Revenue or Board of Commissioners.

REGULATION V OF 1812.

A REGULATION *for amending some of the rules at present in force for the Collection of the Land Revenue.*—PASSED *by the Governor-General in Council on the* 1st *May* 1812.

II. Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates.

[See s. 2, Reg. XVIII of 1812.]

Proprietors declared competent to grant leases and receive engagements in such forms as may be convenient to the parties. Such rule not to legalize stipulations for arbitrary or indefinite cesses, which are to be adjudged null and void, but without vitiating the definite clauses of the engagements.

III. The proprietors of land shall henceforward be considered competent to grant leases to their dependent *tálukdárs*, under-farmers and *raiyats*, and to receive correspondent engagements for the payment of rent from each of those classes or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests Provided however that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of *abwáb*, *mathaut* or any other denomination. All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void; but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or in other words enforce payment of such sums as may have been specifically agreed upon between them.

[As to cesses, see *ante*, p. 60 note.

B took a farming lease of certain property from A for a term of ten years, and wishing to sublet before the expiry of the term entered into the following agreement with A. "We have been getting your *parobí* (festival cess) paid from the village at Rs. 175. The *dar-izaradar* (under-farmer) has nothing to do with the said *parobí*. We shall pay you the same, year after year." In an action to recover on this agreement, the lower Courts found that this *parobí* was an arbitrary and indefinite cess on the raiyats such as is described in s. 54, Reg. VIII of 1793 The High Court remarked that it would have been illegal under s. 3, Reg. V of 1812, and is now prohibited by s. 10, Act X of 1859, that a contract for the collection and payment over of such a cess appeared to fall within the rule stated by Chief Justice Holt in *Bartlett* v. *Vinor*[1] "Every contract made for or about any matter or thing, which is prohibited and made unlawful by statute, is a void contract." The order of the lower Court dismissing the suit was therefore confirmed—*Kamala Kant Ghose and others* v. *Kalu Mahomed Mandal and another*, III B. L. R. A. C. 44.

If the zemindár demand a cess over and above the original rent and the *raiyat* consents and contracts to pay it, then this new demand and the old rent form a new rent lawfully claimable under the contract—*Jiatúla Poramanick* v *Jagadindro Narain Rai*, XXII W. R. 12. A right to a cess which has long existed unquestioned, or which is admitted by all parties, which has been mentioned in former settlement records or otherwise duly sanctioned cannot be summarily extinguished by the refusal of a Settlement Officer to record it upon a new settlement—*Mahomed Ali Khan* v. *Omrao Singh and others*, II N. W. P. Rep. N. S. 425.]

No person attaching lands on the part of Government, or purchasing at public sales, entitled to annul existing leases within the year on the grounds of collusion, without a judicial decision.

IV. Neither any person deputed to attach lands on the part of Government nor purchasers at the public sales shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature.

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[1] Carthew's Reports, 252.

XXIV. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interest in the property. The consideration of and decision on the expediency of selling the entire estate or of disposing in the first instance of any particular part of it is hereby declared to reside in the Board of Revenue and Board of Commissioners respectively, subject to the control exercised by the Government in its executive capacity in matters connected with the public revenue.

Sales of entire estates not liable to be annulled by the Courts on the grounds of some of the sharers not having obtained possession, and the decision on the expediency of selling entire estates or particular parts vested in the Boards respectively.

XXV. No means existing by which any certain or accurate computation can be formed *a priori* of the real value of any estate or portion of estate which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate or portion of estate—it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietors of the lands to Government. The Board of Revenue and Board of Commissioners will be guided in cases of that nature by their own discretion, subject of course to any instructions with which they may at any time be furnished by the Governor-General in Council.

Sales not liable to be annulled on the ground of the proceeds having materially exceeded the arrears due.

[In the case of *Kirt Chandra Rai and others* v. *The Government and Mohani Mohan Takúr* (I Moo. Ind. Ap 383), s. 13 (now repealed), Reg. XIV of 1793, s. 23, Reg. VII of 1799, and the above section were considered, and their effect was thus summed up—"The law therefore is clear, that, if there be an arrear of the annual assessment or of *a fixed monthly kist or instalment* of that assessment unpaid on the first day of the following month, the Governor-General in Council may order a sale, and the Board of Revenue may direct the *whole* estate of the defaulting zemindár to be sold." It was also observed that if the annual amount of revenue be fixed and agreed for by the zemindár, *though not by writing*, to be paid by certain *ascertained* monthly instalments, the above powers attach. In the particular case, they were ascertained by "proof of a constant course of uniform payment for seven years, forming abundant evidence of an agreement between the Government and the zemindárs for the payment of such instalments."

In the case of *Mahárájá Mitterjit Singh Bahadúr, &c.* v. *The heirs of the late Rání, widow of Rájá Jeswant Singh deceased* (III Moo. Ind. Ap. 42) the effect of the different Regulations down to and including s. 2 (now repealed), Reg. XVIII of 1814, was considered and summed up in the following language—"At that time therefore the law stood thus,—the discretionary power of deciding whether the whole of a defaulter's lands or any or what portion of them should be actually sold to pay the arrears of revenue, which was originally vested in the Governor-General in Council, was transferred to the Board of Revenue and Commissioners subject nevertheless to the control of the Governor-General in Council, whenever he thought fit to interpose in his executive authority. But in order to assist the Board in this decision and to prevent delay, it

was the duty of the Collector, whenever any revenue fell in arrear, to report the amount of it to the Board of Revenue or Board of Commissioners, and either before or after advertising a sale to send a statement of the particular land of the defaulter which he proposed should be sold to pay off the arrears, but the Collector was in no case to proceed to an actual sale without the express sanction of the Board." In the particular case, specific authority for the sale not having been *previously* granted by the Board of Revenue, their Lordships were of opinion that the sale of the whole estate in one lot was invalid, not being authorized by the general rules and principles of the Regulations, and that it could not be rendered valid by *subsequent* confirmation thereof by the Board (that Body not being empowered by the law so to confirm an unauthorized sale), nor even by the appropriation of the surplus proceeds of the sale by the defaulting proprietor.

Reg. XVIII of 1814 was repealed by cl. 1, s. 2, Reg. XI of 1822, the next Sale Law, which also (cl. 2, s. 5) required the Board's permission to make the sale. Reg. XI of 1822 (except ss. 36 and 38 which deal with other matters) was repealed by Act XII of 1841, which required (s. 4) the special sanction of the Board to be previously given to every sale in districts *not permanently settled.* Act XII of 1841 (with the exception of ss. 1, 2, and 35 concerned with other matters) was repealed by Act I of 1845, which required the same previous sanction in districts not permanently settled and in the Province of Benares. Act I of 1845 (which originally extended to the Provinces of Bengal, Bahár, Orissa and Benares, and to the Ceded and Conquered Provinces subject to the general Regulations) was repealed, so far as relates to the Lower Provinces by Act XI of 1859, which is now the Sale Law for these provinces, and which requires no previous sanction of the Board to the sale of an estate for arrears of land revenue, and see *ante*, pp. 88—98.]

The Judges declared competent to appoint managers of joint undivided estates on sufficient cause shown.

XXVI. Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, it is hereby enacted that whenever sufficient cause shall be shown by the Revenue Authorities or by any of the individuals holding an interest in such estates for the interposition of the Courts of Judicature, it shall be competent to the *Zillah* and City Judges to appoint a person duly qualified and under proper security to manage the estate, that is, to collect the rents and discharge the public revenue and provide for the cultivation and future improvement of the estate.

[A consideration of the rights of private individuals only will justify the interference of the District Judge under this section—*In the matter of Guru Das Rai, Petitioner*, XX W. R. 54.]

Court may be moved for the removal of such managers, should their conduct be unsatisfactory.

XXVII. In like manner should the authorities aforesaid or any individual holding an interest in the estate be at any subsequent time dissatisfied with the conduct of the Manager, it shall be competent for them or him to represent the circumstances of the case to the *Zillah* or City Judge and to move the Court for the removal of the said Manager.

[See Reg. V of 1827.]

REGULATION XI OF 1812.

A REGULATION *to empower the Governor-General in Council to order the Removal of Emigrants from foreign countries and their descendants from any place in the vicinity of the frontier of the State from which they may have emigrated, and in certain cases to place and detain any such persons in safe custody, and likewise to provide for the Trial of Emigrants and their descendants, who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.*—PASSED *by the Governor-General in Council on the* 18*th July* 1812.

Preamble.

Whereas considerable bodies of persons being natives of Arrakan and ordinarily denominated Mugs have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arrakan frontier, and whereas numbers of those persons or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arrakan against the Government of Ava, of which State Arrakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava, and whereas it is in consequence necessary that the Governor-General in Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arrakan, or any other bodies of aliens or their descendants from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons or any other individuals being natives of foreign countries or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated, and whereas it is necessary to make provision for the trial of persons committing or aiding in the commission of the said offences—the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

Cases in which the Governor-General in Council may order the removal of emigrants to such parts of the country

II. Whenever the Governor-General in Council upon due investigation shall be satisfied, that the emigrants from Arrakan or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants shall have abused the protection afforded to them by attempts to excite disturbances in the State from which they or their

as he may deem most convenient.

ancestors may have emigrated, it shall be competent to the Governor-General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence. In like manner it shall be competent to the Governor-General in Council to order such removal, whenever he may have grounds to be satisfied that the residence of any body of aliens or their descendants in the vicinity of the frontier of the country, from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Such emigrants allowed to dispose of any property they may have acquired, or Government may order real property not disposed of at the period of removal to be sold, and the proceeds to be paid to the emigrants.

III. Whenever any body of emigrants or any individuals belonging to such body shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired, in such manner as they may judge proper; provided however that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor-General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district. In that case, the neat proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

The Governor-General in Council may, in certain cases, order the leaders or other emigrants to be apprehended and kept under restraint.

IV. In cases in which the Governor-General in Council may on due inquiry and mature deliberation be satisfied, that either the preservation of the tranquillity of the British territories or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor-General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the Governor-General in Council necessary for the public good.

Emigrants or their descendants exciting disturbances in the countries from which they may have emigrated to be tried, and if convicted, to be sentenced to seven years' imprisonment.

V. *First.* Any persons of the above description or their descendants, who while living under the protection of the British Government shall enter the country from which they or their ancestors may have emigrated or any other foreign country and shall excite or attempt to excite disturbances in the said countries, shall be liable to be brought to trial for that offence, and if convicted shall be sentenced to suffer imprisonment for the period of seven years.

Second. Any persons, whether native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance either of men, money or arms in prosecution of their attempts to excite disturbances in the country from which they may have emigrated or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence, and if convicted shall be sentenced to suffer imprisonment for the term of seven years; provided however that if the Judge, by whom the case may be tried, shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizámat Adálat, who will recommend to the Governor-General in Council such alleviation of the prescribed punishment as they may judge proper; provided moreover that no sentence or order, which may be passed on the trial of any persons under the provisions of the present Regulation, shall be competent or shall be construed to preclude the Governor-General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

Any persons aiding or assisting in attempts to excite such disturbances, liable to trial and similar punishment.

Such sentences may be mitigated in certain cases, but no sentence or order passed on any such trials to preclude Government from the exercise of the powers vested in it by section 4.

REGULATION XVIII OF 1812.

A REGULATION *for explaining section* 2, *Regulation V*, 1812, *and rescinding sections* 3 *and* 4, *Regulation XLIV*, 1793, *and sections* 3 *and* 4, *Regulation L*, 1795, *and enacting other rules in lieu thereof.*—PASSED *by the Governor-General in Council on the* 19*th September* 1812.

Preamble.

Whereas it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation V, 1812, and to rescind sections 3 and 4, of Regulation XLIV, 1793, and sections 3 and 4 of Regulation L, 1795, the following rules have been enacted, to be in force from the promulgation of them in the Provinces of Bengal, Bahár, Orissa (exclusive of the district of Cuttack and the *pargánás* formerly dependent on that district but now annexed to the *Zillah* of Midnapore) and Benares.

Explanation of the intent of section 2, Regulation V 1812, as to granting leases in perpetuity or otherwise.

II. Doubts having arisen on the construction of section 2, Regulation V, 1812, it is hereby explained that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests. Provided however that nothing contained in the former or present Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use

or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

[Leases granted in perpetuity or for longer than ten years before this Reg. or Reg. V of 1812 were passed and therefore invalid under the previous law, were validated by s. 2, Reg. VIII of 1819.]

Rule for apportioning the assessment on shares of estates when divided.

III. *Second.* When a division of a joint estate shall be made on the application of the proprietors or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation I, 1793, and section 7, Regulation XXVII, 1795, without regard to any engagements that may subsist between the proprietors and their dependent *tálukdárs* (excepting the dependent *tálukdárs* described in section 7, Regulation XLIV, 1793), under-farmers or *raiyats.* But all leases made in conformity to sections 2 and 3, Regulation V, 1812, and section 2 of this Regulation shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

[Section 7, Reg. XLIV, 1793 refers to the dependent tálukdárs mentioned in cl. 1, s. 51, Reg. VIII of 1793, *ante* p. 213.]

REGULATION XXII OF 1812.

A REGULATION *for exempting certain territories and Jagírs situated on the Borders of the Zillah of Bundlekund from the operation of the general Regulations, and for annexing to that zillah certain lands formerly composing a part of the Jagír of the Killadar of Kalenger.*—PASSED *by the Governor-General in Council on the 5th December* 1812.

Preamble.

Whereas it has been deemed proper on principles of justice and policy to confirm or restore to several of the Bandelah chieftains their ancient territorial possessions free from the payment of any tribute to the British Government, and also to place under the authority of several of those chieftains certain lands subject to a fixed tribute payable through the agent to the Governor-General, and likewise to grant to several other persons *jagírs* situated within the ancient limits of the Province of Bundlecund; and whereas circumstances have occurred which render it necessary to explain that it neither was nor is the intention of Government that any of the three descriptions of tenures above described should be subject to the operation of the general Regulations, or to the jurisdiction of the Civil and Criminal Courts of Judicature; and whereas it has been judged advisable to annex to the *Zillah* of Bundlekund certain lands

formerly composing a part of the *jagír* of the *killadar* of Kalenger—the following rules have been enacted, to be in force from the period of their promulgation.

Territories and *jagírs* of certain chieftains and *jagírdárs* declared to be exempt from the operation of the Regulations, and from the jurisdiction of the Civil and Criminal Courts.

II. The territories and *jagírs* at present in the possession of the undermentioned chieftains and *jagírdárs* are hereby declared to have always been and still to be exempted from the operati on of the general Regulations and from the jurisdiction of the Courts of Civil and Criminal Judicature, *viz*:—

The territory of Rájá Kishore Sing, the Rájá of Punnah, including the *táluk* of Shewrajpore, for which a fixed tribute is paid by him through the channel of the agent to the Governor-General in Bundlekund.

Ditto of Rájá Bukht Sing, the Rájá of Kotra and Adjey Ghur, including the Tappa of Bechoun and the *táluk* of Korah, for which a fixed tribute is paid by him through the agent to the Governor-General in Bundlekund.

Ditto of Rájá Bickurmajit Bedjey Bahadar, the Rájá of Chirkárí, including the *táluks* of Chundellah and Berna, for which a fixed tribute is paid by him through the agent to the Governor-General in Bundlekund.

Ditto of Rájá Kisserì Sing, the rájá of Jeitpore.

Ditto of Rájá Ruttun Sing, the rájá of Bijawur.

Ditto of Rájá Teje Sing, the rájá of Sindelah.

Ditto of Rájá Mohun Sing, the rájá of Barounda.

The *jagír* of Díwán Jígul Pershaud, the *jagírdár* of Berrí, &c.

The *jagír* of Díwán Bunkut Rao, *jagírdár* of Beyhit, &c. the son of Díwán Aperbul Sing deceased.

The *jagír* of Rao Punchum Sing, *jagírdár* of Allípúra, the son of Díwán Puratub Sing deceased.

Ditto of Díwán Dheraj Sing, *jagírdár* of Logassí, &c.

Ditto of Rao Perthí Sing, *jagírdár* of Jígní, &c.

Ditto of Chobey Dereao Sing, *jagírdár* of Paldeo, &c.

Ditto of Chobey Salligram, *jagírdár* of Kusbah Púrwah, &c.

Ditto of Chobey Nawul Kishore, *jagírdár* of Bhysont, &c.

Ditto of Chobey Chuttersaul, *jagírdár* of Nowgong, &c.

Ditto of Chobey Gyapershaud, *jagírdár* of Terrow, &c.

Ditto of Chobey Pokerpershaud, *jagírdár* of Parwah, &c.

Ditto of Gopaul Laul, *jagírdár* of Kamtah and Rajowlah.

Ditto of Takúr Dúrjun Sing, *jagírdár* of Meiher, &c.

Ditto of Lall Sheoraj Sing, *jagírdár* of Uchar, &c.

Ditto of Lall Amaun Sing, *jagírdár* of Sahawaul, &c

Ditto of Lall Dúnaput, *jagírdár* of Kothí, &.

Ditto of Rajahram Killadar, *jagírdár* of Muníarrah, &c.

The *jagír* of Pursram Bahadar, *jagírdár* of Khuddí, &c.

Ditto of Kúr Juggut Sing, *jagírdár* of Neyah Gong, &c. son of Luchmun Lungrah deceased.

Ditto of Díwán Bahadar Gopaul Sing, *jagírdár* of Gudrautí, &c.

But such chieftains or *jagírdárs* acquiring any other villages or lands, to be amenable as other native subjects in regard to all acts done therein.

Provided however that in cases in which any of the said chieftains or *jagírdárs* or their successors may have acquired or may hereafter acquire any other villages or lands situated within the limits of the British possessions, than the territories and *jagírs* above specified, they shall in common with all other native British subjects be considered amenable to the jurisdiction of the established Courts of Judicature, and subject to the operation of the general Regulations in regard to all acts done by them in the said villages and lands which they may respectively possess.

The *jagír* of the late killadar of Kalenger, annexed to the *zillah* of Bundlekund.

III. The portion of the lands constituting the *jagír* of the late killadar of Kalenger, which has been ceded to the British Government, is hereby annexed to the *Zillah* of Bundlekund.

The Regulations established for Bundlekund, declared to be in force in the above-mentioned *jagír*.

IV. The Laws and Regulations established for the internal administration of the *zillah* of Bundlekund are hereby declared to be in full force and effect in the lands specified in the preceding section.

REGULATION XIX OF 1814.

A REGULATION *for reducing to one Regulation with alterations and additions certain Regulations respecting the Partition of Estates paying Revenue to Government.*—PASSED *by the Vice-President in Council on the* 17*th September* 1814.

Preamble.

Whereas difficulty has in many instances been experienced in providing fit persons to undertake the partition of estates paying revenue to Government from the inadequacy of the remuneration prescribed in Regulation V, 1810 in some cases, particularly in instances when measurement of the land becomes necessary; and whereas it has been deemed expedient to make provision for defraying the expense attendant on such measurement and for augmenting the remuneration to the *Amín* appointed to make the partition in cases where the Board of Revenue may consider such augmentation equitable; and whereas it will tend to the public convenience to reduce to one Regulation certain Regulations at present in force respecting the partition of estates paying revenue to Government—the following rules have been enacted, to be in force from the

period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

[This Regulation was repealed, so far as it applied to the North-Western Provinces of the Presidency of Bengal by s. 1, Act XIX of 1863, which was repealed by Act XIX of 1873, which contains the existing law for those provinces.]

Division of estates to be made by the Collector.

III. The division of every *zemindárí*, independent *táluk* or other estate paying revenue immediately to Government, which may be ordered to be divided into two or more distinct estates, and the apportioning of the fixed *jamá* of the whole of the estate on the several shares are to be executed under the superintendence of the Collector of the district in which the estate may be situated.

Proprietors of a joint estate entitled to have a division of it at their own expense.

IV. *First.* If all the proprietors of a joint undivided estate shall be desirous to have their estate divided into two or more separate estates, they are to make a written application for that purpose to the Collector of the district under their seals and signatures and attested by four credible witnesses, specifying the shares which belong to them respectively and whether they are desirous of having separate possession of their respective shares or whether any two or more of them purpose to hold their shares as a joint estate. On receipt of the written application above noticed the Collector shall proceed to divide the estate into the number of shares requested, reporting the same to the Board of Revenue. All authorized expenses incurred in making the division are to be borne by the proprietors in the proportion which the *jamá* of their respective shares after the division has been completed may bear to the *jamá* of the whole estate.

One, two or more proprietors of a joint estate entitled to have their shares separated, but Collectors not to proceed to a division, should any of the parties in possession object to the right of the claimants to a separation, until the claim shall be established in a Court of Justice.

Second. If one, two or more of the proprietors of a joint estate held in common tenancy shall be desirous to have separate possession of his or their respective share or shares, or if two or more of them shall be desirous to have their shares separated and to hold them as a joint estate, they are to make a written application for that purpose to the Collector under their seals and signatures and attested by four credible witnesses. The Collector on receipt of the application shall publish an advertisement, notifying the same to parties concerned and specifying that he shall proceed to make the division applied for in fifteen days from the date of the publication of the advertisement, unless any person or persons in possession of the estate or any part thereof shall before the expiration of that time deny, by a writing under his or their seals and signatures and attested by two credible witnesses, the right of such claimant or claimants to the share or shares so claimed by him or them, in which case the Collector is not to proceed to the division until the disputed title be established in a Court of Justice, or admitted by the party or parties so disputing it by a writing to that effect under his or their seals and signatures and attested by four credible witnesses.

Collector how to proceed, when no objection is made.

Third. In the event of no denial being offered to the claim for separation in the form stated and within the period limited in the foregoing clause, the Collector shall proceed to make the division applied for in the mode hereafter described, reporting the same for the information of the Board of Revenue; and all authorized expenses incurred in making the division are to be borne by the proprietors at large in the proportions which the *jamá* of their respective shares after the division has been completed shall bear to the *jamá* of the whole estate. This last rule however is not to be understood to preclude the parties concerned from entering into a private adjustment among themselves of the proportions in which such expenses shall be severally borne by them; and whenever the whole amount demandable on that account shall be tendered to the Collector by one or more of the parties, he shall receive the same accordingly, and on the contrary if the amount be not so tendered, he is to enforce the rules as above laid down and is to levy the amount (if it be not paid) by the same process against the sharer or sharers failing in the payment of their proportions as is prescribed for levying arrears of revenue.

The foregoing rule applicable to portions of estates, consisting of distinct *maháls.*

Fourth. The whole of the provisions of this section for the division of estates held in common tenancy are to be considered equally applicable to the separation of portions of estates consisting of distinct *maháls.*

[The object of this Regulation is to protect the interests of Government, which might suffer, if when an estate were partitioned among co-sharers the revenue were unequally assessed upon the portions into which it was divided (see *ante*, p p 78, 82 Notes). To effectuate this object, the Revenue Authorities have been given exclusive jurisdiction in cases of partition of revenue-paying estates; and in such cases falling within the provisions of the Regulation the jurisdiction of the ordinary Civil Courts is barred. The Civil Courts have jurisdiction in all cases of partition of property in which the interests of Government are not affected, as for example—of a *shikmi táluk*—see the cases of *Umesh Chandra Saha* (quoted below) and of *Mathúr Chandra Karmakar and others* v. *Manick Chandra Banga and others*, VI W. R. Civ. Rul. 192, in both which cases a *shikmi táluk* was partitioned by the Civil Court: and see the proposition stated generally in *Ṛaní Shama Sundari Debya* v *Koer Puresh Narain Rai and others*, XX W. R. 182.[1]

Jurisdiction of the Civil Courts.

A partition of a revenue-paying estate only can be made under Reg. XIX of 1814. The only point for the Civil Court to determine in respect of such an estate is whether the plaintiff has a right to partition or not, if that question be disputed. It has no authority to make the partition itself, or to direct that a partition be made by any local form in use in the district among private parties—*Shah Mohsen Ali and others* v. *Neknam Singh and others*, VI W. R. Civ. Rul. 15, and II R. C. & C. R. Civ. Rul. 24.

Lands forming a portion of several different táluks (each of which pays revenue to Government) and held jointly by the proprietors of such taluks, who each realize from the tenants a portion of the rent proportioned to their interest in the land, cannot be divided under the *batwára* laws, nor can a partition be made by the Civil Court irrespective of the Revenue Authorities—

[1] See also *Bama Sundari Debi Chaudhrain* v. *Kashi Kissore Rai*, XXII W. R. 215.

Dúrga Kant Lahúri v. *Radha Mohun Gúho Neogí and others*, VII W. R. Civ. Rul. 51, and III R. C. & C. R. Civ. Rul. 62. From this case was distinguished the case of *Umesh Chandra Saha &c.* v. *Manick Chandra Bonick, &c.* (VIII W. R. Civ. Rul. 128), in which a *shikmídar* sought a partition between himself and his *co-shikmídar*, so that neither party might interfere with the other, but that each might collect either from certain raiyats or from the raiyats on a particular side of a certain line. The shikmí tenure consisted of a share (11 annas 3 gandas) in certain villages, the remaining share (4 annas 1 ganda) was formerly a jagír but had been resumed and settled. The partition sanctioned was only between the joint owners of the *shikmí* tenure and did not affect the owner of the resumed jagír, who continued to collect from all the raiyats in proportion to his share. See also *Bharrat Takur and others* v. *Mir Martaza and another*, XXI W. R. 225, in which a *mauza* had first to be separated from the *zemindárí* and separately assessed with Government revenue, and then partitioned amongst the co-sharers. It was held that this successive partition was contemplated by the revenue law and must be carried out. A co-sharer in a joint undivided estate sued for a share of an orchard which formed part of the joint estate—*Held* that there is no law which entitles a shareholder to obtain partition of a *portion* of the undivided estate against the will of the other co-sharers and that his claim in this respect must be dismissed; but that his claim to have his rights ascertained and possession (a joint possession) decreed might be allowed—*Mitthú Lal* v. *Gholam Nasir-úd-dín, &c.* IV N. W. P. Rep. Civ. Ap. 276.

The following observations are important:—"It is admitted that the *batwára* proceedings under the provisions of Reg. XIX of 1814 were quashed by the Board of Revenue, and that the parent estate is still a joint and undivided property. There is no proof of any private division and the revenue of the *táluk* is still paid *ijmálí* or joint. The plaintiff's suit for possession of a distinct share of the property is therefore wholly inadmissible. If he is kept out of his share of the rents by his co-sharers or seeks to set aside a lease granted by them, he can bring his action, if so advised, for a refund from his co-sharers or for the cancelment of the lease; but his suit in the present shape is based upon the assumption of a division which has not taken place"—*Lalla Súbhú Charan Lal* v. *G. Yúmí, &c.* II Sev. 948. "We are of opinion that the proprietary right to a share in an undivided estate, which includes and carries with it a right to claim and enforce a partition of that share, must be a right of an absolute and unlimited nature, and does not belong to a Hindú widow who has been placed in possession of her deceased husband's share for her maintenance"—*Bhúp Singh* v. *Mussamat Phúl Kowar*, III N. W. P. Rep. Civ. Ap. 168. It may be observed that, under the Hindú law applicable to this case, the widow was entitled to maintenance only and not to succeed to her husband's share.]

Courts of Justice to direct payment of the expenses of divisions in decrees awarding the proprietary right in disputed cases.

V. Whenever the Courts of Justice may pass a decree awarding to any person the proprietary right in a portion of an estate paying revenue to Government (whether fractional or consisting of specific lands) and may issue a precept to the Collector requiring him to divide the estate, and (provided it be not held *khas* or let in farm by Government) to put the parties in possession of the shares to which they may be entitled under the decree, they shall make it a general rule to direct at the same time that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in the subsequent process of dividing, separating and giving possession of, and apportioning the public revenue on the portion of the estate or lands

so decreed; provided however that, if any special reasons shall appear for a deviation from this general rule, the Courts shall be at liberty to direct the expense in question to be defrayed by all or any of the parties to the decree in such proportions as the Court passing the decree may from a consideration of the particular circumstances of the case deem equitable. Copies of all orders which the Courts may pass under this section are invariably to be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him requiring him to divide the estate and to put the parties in possession of the shares to which they may be entitled under the decree.

[The Civil Court passed a decree for the division of an estate into two shares of 1½ annas and 14½ annas respectively, and directed that the whole of the expenses of the partition should be paid by the proprietors of the 1½ anna share. The Collector, having proceeded to make the partition, called upon the proprietors of the 14½ anna share to pay a proportion of the expenses, and on their failing to pay the full amount claimed of them sold their share under Act XI of 1859, as for the realization of a demand recoverable as an arrear of land-revenue. The proprietors of the 14½ anna share upon this brought a civil suit against the auction-purchasers to annul the sale and recover their share. It was objected that the plaintiffs should have appealed to the Revenue Authorities, and that a suit to annul a sale made under Act XI of 1859 was not cognizable by the Civil Court. *Held*, 1*st* that, the Civil Court having directed by whom the expenses of partition were to be borne, it was not competent to the Revenue Authorities to interfere with or act contrary to that direction; 2*nd*, that the expenses of making a partition, when such partition is ordered by a Civil Court, are not realizable as an arrear of land-revenue, as is the case when a partition is made by a Collector under s. 4 of Reg. XIX of 1814—that, if the expenses are not paid, the Collector should hold his hand and report to the Civil Court, who would take steps to have them realized; 3*rd* (overruling *Umesh Chandra Chatterji* v. *The Collector of the* 24-*Pargánas*, VIII W. R. Civ. Rul. 439) that, there being no arrear for which the Collector could proceed to sell under Act XI of 1859, that officer had acted without jurisdiction, and in this view the suit was cognizable by a Civil Court—*Baijnath Saha and others* v. *Lala Sital Persad and others*, II B. L. R. F. B. 1.

Act 1 of 1838.

Act XI of 1838 enacts that it shall be lawful for the Board, with the sanction of the Local Government, to fix the remuneration of an Amín or other person employed to effect a partition, and to cause the same to be levied from the parties concerned in the same manner as an arrear of revenue at such periods and in such proportions as the Board may think fit. It has been held under these provisions that there can be no arrear, for default in the payment of which a Collector has jurisdiction to proceed to a sale of the estate, until the Board have sanctioned the amount of remuneration proposed by the Collector. Where the Collector having fixed the costs of the batwára proceedings without obtaining the Board's sanction thereto demanded the amount, and on default of payment proceeded to a sale, it was held that he had no jurisdiction, as there was no arrear, and that the Civil Court in accordance with the above precedent had jurisdiction to reverse the sale—*Har Gopal Das and another* v. *Ram Golam Suhí and others*, V B. L. R. 135.

A applied for a *batwára*. B consented, but A and B both objected as to the share of a third party, in consequence of which the Collector struck the batwára proceedings off his file without bringing the partition to a conclusion. A having paid the whole of the *batwára Amín's* fees sued B for contribution. *Held* that the payment was not a voluntary one, that there was a joint

liability as the Collector could under the provisions of Act XI of 1838 call upon all the proprietors to pay—that A was therefore entitled to recover—*Girish Chandra Lahúrí* v. *Asúdanissa Bibí*, VIII W. R. Civ. Rul. 334, and IV R. C. & C. R. Civ. Rul. 144.]

Two or more estates which originally formed part of the same *zemindárí*, &c. may be united and registered as one estate.

VI. If two or more estates that may have originally formed specific and ascertained portions of the same *zemindárí*, *táluk* or *chaudhrí*, shall come into the possession of one person, or if one, two or more persons shall possess two or more shares of any such estate, such person or persons shall be entitled to have such shares united and to hold them as one estate. Application for the union of estates is to be made to the Collector of the *zillah* in writing under the seal and signature of the proprietor or proprietors and attested by two credible witnesses, and the Collector (provided he see no objection) shall comply with the application and cause the necessary entries to be made in the records of his office, reporting the circumstance to the Board to which the case may appertain.

Each estate to be as compact as possible.

VII. When a division of an estate shall be ordered to be made, each of the portions into which the property shall be directed to be divided shall be formed of entire and (as far as the situation of the lands and other local circumstances may admit) contiguous *maháls* or villages, so that each estate may be as compact as possible; provided that, if the property so ordered to be divided shall not consist of a sufficient number of villages to admit of one or more whole village or villages being included in each estate, the division of the village or villages of which the property may consist is to be made so as to render each estate as compact as possible.

Public revenue to be assessed upon each estate agreeably to the rules herein prescribed.

VIII. The public revenue shall be assessed on each estate into which the property shall be ordered to be divided in conformity with the rules prescribed in Regulation I, 1793, with respect to estates situated in the Provinces of Bengal, Bahár and Orissa, and with Regulation XII, 1805 in the Province of Cuttack; but in selecting the *maháls* or villages to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads or navigable rivers, the nature and quality of the soil and produce, the quantity of waste land, the depth at which water may be procurable, the number of tanks, the state of the embankments and water-courses and every other local circumstance affecting the present or likely to influence the future value of the lands are to be duly considered, and the *maháls* or villages to be included in each estate fairly and impartially selected accordingly.

Rules for selecting the lands to be included in each estate.

The dwelling-house, &c. of one sharer to be retained by him, although

IX. If a dwelling-house belonging to one sharer shall be situated in a *mahál* or village which may be included in the estate of another, the proprietor of such house shall be at liberty to retain it with the offices, buildings and

situated in the share of another on payment of rent.

ground immediately attached to it, upon paying to the proprietor of the *mahál* or village an equitable rent for the ground; and the limits of the ground and the rent to be paid for it shall be particularized in the paper of partition.

[B, one sharer, was under this section permitted to retain a dwelling-house and seven *bighás* of land at an annual rent of Rs. 3 per bighá. Nineteen years after, A, another sharer, within whose share the house and land were situate, sued in the Revenue Court to enhance the rent to Rs. 6 per bighá. It was contended for B that the rent could not be enhanced. For A it was urged that, though the rent of Rs 3 per bighá might have been equitable at the time of partition, it did not follow that it was equitable at the time of suit; that the land was not protected from enhancement, much less such portions of it as were not immediately adjacent to the house, but cultivated as large fields by B as a raiyat. The Assistant Collector held, on the authority of *Bipro Doss Dey* v. *William Wollen* (I. W. R 223) that the suit should have been brought in the Civil Court and that the Revenue Court had no jurisdiction. The High Court on special appeal decided that the case must be brought in the Civil Court, and it was accordingly dismissed without any adjudication as to the question of liability to enhancement. The Court however clearly intimated that the question whether so much land as seven bighás should have been granted under the above section as attached to the house, was one for the Collector who made the partition and therefore to be regarded as a *res judicata*—*Sheo Khairudín Ahmed, &c.* v. *Sheikh Abdul Bakí*, III. B L. R. A. C. 65.

In the case of *Lalít Narain Singh* v. *Gopal Singh and others* (IX W. R. Civ. Rul. 145) plaintiff sued for *khas* possession of certain land which fell to his share under a *batwára*, and of which possession was retained by defendant. *Held* that s. 9 did not apply to the case, as the land was not shown to be immediately attached to any dwelling-house belonging to any co-sharer—that the division of the estate did not confer the *status* of a raiyat on the defendant, formerly a co-sharer, so as to give him a right of occupancy and entitle him to hold the land against the plaintiff In *Lakhram and others* v. *Ghumni and others* (IV N. W. P. Rep 298), A's house fell within B's lot B sued for possession of the house. *Held* that it lay upon A to show that under s. 38, Act XIX of 1863, he was entitled to hold possession by having agreed to pay for the ground an equitable rent fixed by the officer who made the partition and specified in the partition paper.]

Rules with respect to tank, embankments, &c.

X. Tanks, reservoirs, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation or construction of works of this nature, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates, the paper of partition is to specify as far as circumstances may admit the proportion of the benefit which each estate is entitled to derive therefrom, and of the expense of the repairs with which it is to be charged.

And places of religious worship.

XI. Places of worship that may have been held in common previous to the division of a *zemindárí* or other estate shall be continued on the same footing unless the parties shall otherwise agree amongst themselves, in which case they

are to signify their determination in writing to the *Amín*, who shall insert it in the paper of partition.

XII. When an estate shall be ordered to be divided, the Collector shall appoint a creditable *Amín* to make the division, who shall receive a percentage (as hereafter specified) on the amount of the *jamá* of the whole estate, as a remuneration for his trouble and the expense of establishment.

Divisions of an estate to be made by an *Amín* to be appointed by the Collector and paid by a percentage on the *jamá*.

XIII. *Second.* If the *Amín* shall be convicted before the Magistrate of the *zillah* of receiving or allowing any other person to receive, directly or indirectly, any money or effects or other property from the sharers or from any person or persons on their behalf in opposition to his oath, he shall be sentenced to pay a fine to Government of three times the amount of the money or value of the property so received by him or by any other person with his permission, and to imprisonment not exceeding six months; and all prosecutions before the Magistrate under this clause shall be for a criminal misdemeanor at the instance of the Collector of the district through the *vakíl* of Government. It is however at the same time hereby further declared that the *Amín* shall be also liable to a suit for the same offence in the *Díwání Adálat* of the *zillah*, and shall on conviction be compelled to restore the money or property to the party from whom it may have been received with all costs to the party prosecuting, and be imprisoned until he shall make good the decree, or the amount of it shall be liquidated by the sale of his property.

Penalty for *Amíns* convicted of corruption.

XIV. The Collector is to deliver to the *Amín* a *sanad* of appointment under his official seal and signature, in which are to be specified the name of the estate, the names of the different sharers, their respective proportions, the number of separate estates into which the property is to be divided and the shares included in each estate, together with a copy of the regulations under which he is to make the division, and of any entries in the official records which may relate to the property to be divided.

Documents with which the Collector is to furnish the *Amín*.

[The following section provided a fixed scale of percentage for the remuneration of the Amín, but has been repealed by Act XI of 1838, as to which see above, Note to s. 5.]

XVI. Upon the arrival of the *Amín* on the spot, he is to survey in person the different parts of the property, so as to enable him to select the lands to be included in each estate in conformity to the rules prescribed in sections 7, 8, 9, 10 and 11.

Amín to survey the different parts of the estate in person.

XVII. *First.* The proprietors or their local *naibs* or representatives are to furnish the *Amín* with the accounts of the gross produce of each *mahál* and

Proprietors to furnish the *Amín* with the

necessary accounts, to enable him to allot the *jamá* on the several shares.

village, and all other accounts or information requisite to enable him to assess the public revenue on each of the estates into which the property is to be divided in conformity to the rules prescribed in the present Regulation.

Proprietors, their local *naibs* or representatives, to swear to the truth of the accounts; or if exempted from swearing, to subscribe the usual declaration.

Or on omitting to furnish the required accounts declared liable to fine.

Second. The proprietors or their local *naibs* or representatives are to swear to the truth of the accounts before the *Amín*, or if they shall be of the description of persons whom the Courts of Judicature are empowered to exempt from taking oaths, the Collector is to authorize the *Amín* to receive from them a solemn declaration to the truth of the accounts. If the proprietors shall omit to furnish the required accounts, the persons withholding them shall be liable to such daily fine, until they produce them, as the Board of Revenue may judge it proper to impose, upon a consideration of the case and their situation and circumstances in life; and the amount of the fine shall be levied by the Collector by the same process as is prescribed for levying arrears of revenue.

Such proprietors, &c. to cause their *patwáris*, &c. to attend the *Amín* under the penalty prescribed in the preceding section.

Third. The proprietors or their local *naibs* or representatives are likewise to cause the *patwáris* and other *zemindárí* officers to attend the *Amín*, to explain the accounts and furnish him with such information as he may require for dividing the estate and apportioning the public *jamá*, under the penalty of being fined in the same manner as for omitting to produce their accounts.

Documents to be delivered to the Collector by the *Amín* when he has completed the division.

XVIII. When the *Amín* has completed the division of the property and allotted the public revenue on each estate, he is to submit to the Collector the papers of the division and allotment, which are to specify the names of the *maháls* or villages included in each separate estate into which the property may have been divided, the gross produce of each *mahál* and village for the three years preceding the year in which the division may be ordered to be made, and the proportion of the public *jamá* which he may have assessed thereon, with such observations regarding the manner in which he may have selected the lands included in each estate and the accounts from which he may have apportioned the public revenue of them, as may be necessary for the information of the Collector, together with a detail of the adjustment which he may have made respecting the tanks, places of worship or other matters specified in sections 9, 10, and 11 of this Regulation.

Collector, after examining the documents and hearing the objections of the parties, to draw out a paper of partition.

What the paper is to contain.

XIX. *First.* The Collector shall examine the documents which may be delivered to him by the *Amín* and, after receiving any objections or remarks which may be offered to him by the sharers in person or by their *vakíls*, he shall draw out a paper of partition, specifying the *maháls* or villages included in the several estates into which the property may have been divided, the gross produce of each *mahál* or village, the allotment of the public *jamá* upon each,

the name or names of the proprietor or proprietors of each estate and, where an estate is to be held as the joint property of two or more persons, their respective shares in the estate, together with the stipulations which may have been made respecting any of the matters mentioned in sections 9, 10 and 11, and transmit a copy of the paper to the Board of Revenue with such observations as may be necessary to enable them to judge, whether the division of the property and the allotment of the *jamá* on each estate into which it may have been divided have been made agreeably to the Regulations.

Collector how to act previously to forwarding the paper of the partition to the Board of Revenue. In what cases the sharers are to be put in immediate possession. Allotment of the assessment to be confirmed by the Board of Revenue or who may alter the same, if necessary, in pursuance of certain rules. The Boards also empowered to alter the division of landed property. Or if necessary may direct further inquiries previous to determining on the case.

Second. Previously to forwarding the paper of partition as required by the preceding clause, the Collector shall furnish the sharers with a copy of it. In the event of the whole of the sharers, by a written declaration under their seals and signatures and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them, or in the event of none of the sharers offering any objection thereto within fifteen days after they shall have respectively received the copies delivered to them, the Collector on receipt of the general declaration of satisfaction in the former case, or in the latter on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares, reporting the same to the Board of Revenue and submitting to them a copy and translation of the partition statement and allotment of the assessment; but such allotment of the assessment shall not be deemed conclusive until it shall have been confirmed by the Board of Revenue, who are authorized to make any alterations therein which may appear to them necessary for the purpose of carrying into effect the proportionate rule of allotment prescribed in the Regulations cited in section 8 of this Regulation. The Board of Revenue are empowered to confirm or make such alterations in the division of the property and the allotment of the public revenue on each estate or other matters specified in the paper of partition, as may appear to them proper, except in case of a reduction of the fixed assessment. The Board of Revenue may order further inquiries to be made before they pass their determinations on the division in cases in which it may appear to them necessary.

Rule in the event of sharers objecting to partition statement.

Third. In the event of any objections to the partition statement being offered by the sharers or any one of them within the period of fifteen days specified in the preceding clause, the Collector shall not put the parties in possession, but shall transmit without delay a copy and translation of such objections to the Board of Revenue together with a copy and translation of the partition statement, and of the whole or such part of the *Amín's* report as may be applicable to the points objected to, and such further information as may be necessary to enable the Board to form a satisfactory opinion on the case.

Decision of the Board of Revenue to be final, and the parties to be put in possession by the Collector, who shall make the necessary entries in the records.

XX. *First.* The determination of the Board of Revenue on the paper of partition shall be final, and the Collector on receiving notification thereof shall put the parties in possession of their respective estates and immediately make the necessary entries in the records of his office, after comparing the documents delivered by the *Àmín* with the former entries regarding the estate and correcting or supplying any errors or omissions which may be discovered in those entries.

No objection to the partition made by the Collector to be received by the Boards after fifteen days, unless good cause be assigned.

Second. No objections from the sharers to the partition communicated to them by the Collector in the first instance shall be received by the Board of Revenue after the prescribed period of fifteen days without good cause for the delay being shown to their satisfaction.

Boards may fine a defaulter for preferring groundless, vexatious or litigious objections. How such fine shall be recovered.

Third. Whenever the objections to the Collector's partition which may be preferred to the Board of Revenue shall clearly appear to be groundless, vexatious and litigious, it shall be competent to the Board of Revenue to impose such fine upon the defaulter as may be deemed proper on consideration of the circumstances of the parties and the nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of revenue.

[When a partition has been regularly carried out and sanctioned by a Commissioner (see s. 4, Reg. I of 1829) under the above section, it seems that all questions as to the different shares must be taken to have been finally disposed of, and a civil suit will not lie which has for its object the re-opening of such questions—*Sheikh Zaker Ali Chaudhrí* v. *Jagdessurí*, I W. R. Civ. Rul. 323: *Ram Sahaya Singh and athers* v. *Syud Mazhar Ali and others*, II B. L. R. Appen. 40: *Haro Persad Rai* v. *Mohant Ramcharan Singh*, VI W. R. Civ. Rul. 314. These cases were discussed in the latter case of *Spencer* v. *Pahal Chaudhri and others*, VI B. L. R. 659, in which it was laid down that the above provisions, declaring the determination of the Revenue Authorities on the paper of partition final, apply only to those questions which can legally be determined by those authorities, *viz.* the division of the lands and *jamá*, and do not extend to questions of right and title, which those authorities have not jurisdiction to deal with. It was held therefore that the Civil Court had jurisdiction to entertain a suit brought to obtain a declaration of plaintiff's right to a larger share than that recorded in his name in the paper of partition; and this, though plaintiff had not in proper time appeared before the Collector and objected to the share allotted to him. In *Hari Persad Jah* v. *Maddan Mohan Takur and another*, VIII B. L. R. Appen. 72, it was held that a minor was not bound by partition proceedings in which his guardians did not act *bonâ fide* and with a due regard to his interests, and that such proceedings were not final as far as he was concerned.

A formal partition of a *pattidárí* estate was made by the Revenue Authorities under Reg. XIX of 1814, by which A's alleged share of two and a half gandas was included in and declared to be part and parcel of B's share of three annas and two and a half gandas. A put in before the Collector a petition of objection, which was rejected. He then brought a suit in the Civil Court

for *confirmation of his possession of two and a half gandas and declaration of right* thereto. It was urged that this suit would not lie, as no application was made therein for the annulment of the batwára proceedings, which had included the property in B's share. *Held* that there was no necessity for A to apply in his plaint for the reversal of the batwára proceedings, which having been confirmed by the Commissioner and the Board of Revenue had become final—*Indrabati Kunwari* v. *Mahadeo Chaudhri*, I B. L. R. Short Notes vii.

The purchaser at auction of an 8-anna share or *patti* in an estate sued the co-parceners, who owned the other 8-anna *patti*, to have his share of the *sír* lands made equal to that of the defendants. It was alleged that the unequal division of the *sír* lands (plaintiff having nearly three bighás less than the defendants) was the result of some private arrangement made at the last settlement. *Held* that the Civil Courts were not at liberty to disturb any such arrangement, and that plaintiff's remedy (if any) was to be had in the Revenue Courts and by claiming a separation of his share in the joint and undivided estate—*Shah Gholam Ghous* v. *Shah Faríd Alam*, I N. W. P. Rep. Civ. Ap. 246. As to proprietors being entitled, without a Government partition, to separate possession of pieces of waste land brought into cultivation by them, see *Ublakh Rai* v. *Sheo Nandan Singh*, IV N. W. P. Rep. Civ. Ap. 80.

In a suit for a *kabúliyat* under cl. 1, s. 23, Act X of 1859, the defendant pleaded a *mukarrarí* tenure under a *patta* at four annas per *bíghá*. In the papers made out by an amín during the batwára of the estate in 1858, defendant's rent was entered as Re. 1-8 per bíghá. Defendant had at the time objected to this, and his objection had been disallowed by the Collector (upon what grounds is not stated). The Lower Appellate Court held defendant bound by this decision of the Collector, as he had not appealed against it within three years. The High Court reversed this decision, remarking that the defendant raiyat was no party to the batwára and could not be bound by the proceedings therein, and that the Collector's decision rejecting his objection was not an award within the meaning of Act XIII of 1848, for the reversal of which a suit must be brought, if at all, within three years, and that Act XIII of 1848 applied only to awards made by the Revenue Authorities under Regs. VII of 1822, IX of 1825 and IX of 1833—*Paltú Rai* v. *Giridhárí Singh*, Wy. Rent Dec. 54. Act XIII of 1848 has been repealed by Act VIII of 1868, save as provided in s. 1, *id.*: but see cl. 6 s. 1 of the repealed Act XIV of 1859 and Art. 44, Sched. II of Act IX of 1871, which is now in force.]

Board of Revenue may impose a fine on every person withholding accounts, or otherwise obstructing the division of an estate.

XXI. If any of the sharers in a joint undivided estate shall by withholding the requisite accounts and papers or by any other voluntary act impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the Regulations, the party or parties so offending shall on the report of the Collector to the Board of Revenue be liable to such fine as the Board on consideration of the circumstances of the case may judge proper to impose; and the fine so ordered shall also be levied in the mode prescribed by the Regulations for the recovery of arrears of revenue. It is hereby further explained that, whenever a daily fine may be imposed under any part of this Regulation for the purpose of causing the delivery of accounts or otherwise and such fine may be imposed by the Collector, the operation of such daily fine (provided it be approved by the Board of Revenue) or of such part thereof as

may receive their approbation shall commence from the date when the fine may have been first notified to the party on whom it is imposed, unless in any case it should be otherwise ordered by the Board of Revenue or be otherwise provided by the original order of the Collector.

Divisions of estates may be made by the sharers themselves, or by arbitrators under the inspection of the *Amín* in certain cases.

XXII. In the case specified in clauses first and second, section 4 of this Regulation, if all the proprietors of the estate to be divided shall agree to make the division themselves and to allot the public *jamá* upon each estate and to adjust all other matters respecting the division agreeably to the Regulations, they shall present a petition to that effect, under their seals and signatures and attested by four credible witnesses, to the Collector, who shall issue directions to the *Amín* accordingly. But the proprietors shall produce the required accounts before the *Amín* and swear or subscribe a solemn declaration to the truth of them, and the division of the lands and the apportioning of the *jamá* and every other matter relating thereto shall be settled in the presence and subject to the inspection of the *Amín*, who shall be responsible for the Regulations being in every respect observed. In like manner, if all the proprietors of the estate which may be ordered to be divided in the cases specified in the foregoing clauses and section shall agree to refer the division of the estate and the apportioning of the public *jamá* and the adjustment of all other matters respecting the division to an arbitrator or arbitrators, they shall present a petition to that effect to the Collector, attested by four credible witnesses and specifying the name of the arbitrator or arbitrators whom they may choose and, where two or more arbitrators are chosen, the name of the umpire. Upon the receipt of the petition the Collector shall direct the *Amín* to cause the parties to execute arbitration bonds, the proprietors shall produce the necessary accounts before the arbitrators and swear or subscribe a solemn declaration to the truth of them before the *Amín*, and the division of the lands and the allotment of the *jamá* and every other matter relating thereto shall be settled by the arbitrator or arbitrators in the presence and subject to the inspection of the *Amín*, who shall be responsible for his or their proceeding according to the Regulations. When the sharers or the arbitrator or arbitrators in the cases above specified shall have adjusted the division of the property and the allotment of the public *jamá* on each estate and all matters relating thereto, and the whole shall have undergone the revision of the *Amín*, he shall submit all the documents and papers specified in section 18 of this Regulation to the Collector, who upon the receipt of them shall proceed in the same manner as if the division had been made without the interference of the parties or the arbitrator or arbitrators; and all the rules contained in this Regulation regarding divisions made solely by the *Amín* shall

be held applicable to divisions made by the parties or arbitrators under this section.

[A *mâfidár*, who is the assignee of the Government revenue, may assent to any arrangement which the zemindárs may make for the conversion of their joint into a separate liability. A partition so acted on was held good, though not carried out by the Revenue Authorities—*Ranî Sarnamayi* v. *Ram Charan Singh*, *&c.*, IV N. W. P. Rep. Civ. Ap. 251.]

How the *Amín* employed in superintending private partitions is to be remunerated.

XXIII. All the rules prescribed in this Regulation which relate to the expenses incurred in making a partition shall equally apply to the remuneration of the *Amín* who may be appointed to superintend partitions made by the parties themselves or their arbitrators under the provisions contained in the preceding section, but with this difference that the *Amín* employed in superintending such private partitions shall only be entitled to receive one-half of the amount of remuneration, which the *Amíns* employed in making public partitions are entitled to under section 15 of this Regulation.

[See note to s. 14 above.]

Cases in which the sharers are to draw lots for the lands that are to form their respective estates, after the division is finally adjusted.

XXIV. To remove, as far as may be possible, every inducement to fraud or partiality in the division of landed property, it shall be a rule that, where two or more of the estates shall consist of the same proportions of the whole property divided, the parties entitled to them shall (excepting in the case subsequently specified) draw lots for the divisions in the public *kachahrí* before the Collector, who shall be held responsible that in drawing the lots no unfair means are practised. Agreebly to this rule, if any landed property shall be ordered to be divided into four estates, each consisting of a four annas share or four-sixteenths or into three estates, one consisting of an eight annas share or eight-sixteenths, and the other two each of four annas or four-sixteenths of the whole property, after the division and allotment of the public revenue and every other matter relating to the division shall have been finally adjusted, the proprietors of the four shares in the first case and of the two four-annas shares in the second shall draw lots for the divisions; unless they shall settle amongst themselves which division of the property each party is to receive, and present a petition to the Collector under their respective seals and signatures and attested by two credible witnesses, specifying the divisions which each of them may have agreed to take, in which case the Collector shall put them in possession of the divisions which they may respectively select.

Governor-General in Council reserves to himself the power of ordering a new

XXV. To guard against collusion or error in the distribution of the public *jamá* on landed property which may be ordered to be divided into two or more distinct estates, it is declared that, if it shall be proved to the satisfaction of the Governor-General in Council within ten years after confirmation of the partition

allotment of the public *jamá*, should it be proved to his satisfaction within ten years that the allotment was fraudulently or erroneously made;

as prescribed in section 3, Regulation XI, 1811, that the *jamá* was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the *jamá* upon the several estates into which it may have been divided conformably to the principles prescribed in the Regulations cited in section 8 of this Regulation, an estimate of the gross produce of each estate at the time of the division to be made agreeably to the best evidence and information which may be procurable respecting it; and further of ordering the parties whose estates may appear to have been under-assessed to pay the sharers, upon whose estates the assessment may have been excessive, the sum of which they may be found to have been defrauded by the over-assessment, and in the event of their omitting to discharge the amount to cause it to be levied by the Collector by the process prescribed for the recovery of arrears of revenue.

And to order the parties whose estates may have been over-assessed to be indemnified by the sharers whose estates may have been under-assessed.

[With this section should be read s. 3, Act XX of 1836, which enacts that it shall be lawful for the Board of Revenue to give six months' notice in writing of an intention to quash a batwára (partition); and such notice shall be affixed at the offices of the Collector of the district and Munsif of the jurisdiction within which the lands under partition or part of those lands may be situated; and if within six months after such notice no party to the said batwára shall deliver to the said Collector a written declaration, that he the said party objects to the quashing of the said batwára, it shall be lawful for the said Board to quash the said batwára.]

Parties not attending in person to appoint *vakils* with full powers to act for them.

XXVI. If any of the sharers in landed property ordered to be divided, from indisposition or other cause, shall be unable or shall not choose to attend the Collector or the *Amín* in person in the cases required, they shall depute a *vakíl* duly appointed with powers to perform all such acts as they themselves are authorized or required to perform under this Regulation until the division of the property shall be finally adjusted.

Board of Revenue to take care that the rights of females and other disqualified landholders are duly attended to in divisions.

XXVII. If all the sharers in landed property ordered to be divided shall be females not deemed competent to the management of their own estates, or minors, or persons otherwise disqualified for the charge of their own lands, the Collector shall report the same to the Board of Revenue who are enjoined to be careful that the rights of such proprietors are duly attended to in the division. In instances where more proprietors than one possess an undivided estate, and part of such proprietors shall come under any of the descriptions of disqualified landholders above mentioned, having guardians, such guardians shall vote and act for them in all matters relating to the division of their lands under this Regulation.

Joint landed property to be held responsible for the payment of the public revenue, until

XXVIII. Landed property, for the payment of the public revenue assessed upon which engagements have been or may be concluded with the proprietors and which may be ordered to be divided under this Regulation, shall remain under charge of the manager appointed by the proprietors of joint undivided estates;

and the whole of it shall be held answerable for the payment of the public revenue assessed upon it (except in the cases heareafter specified) until the division shall have been finally adjusted and ratified, and the proprietors put into possession of the distinct estates into which it may be ordered to be divided.

the parties are put in possession of their distinct shares.

XXIX. In cases where the landed property to be divided is held *khas* or let in farm by Government, the partition inasmuch as regards the allotment of the lands shall be made agreeably to the rules prescribed in this Regulation, as far as they may be applicable to lands so circumstanced; and the farmer or the Native Collector of the revenue on the part of Government shall produce all the accounts and papers, which he may possess respecting the lands, upon receiving a requisition to that effect from the *Amín*. Such property when divided will be subject to the rules contained in the Regulations cited in section 8 of this Regulation.

Rules respecting the division of landed property let in farm or held *khas* by Government.

XXX. In order to obviate doubts respecting the descriptions of joint estates to which the several provisions contained in this Regulation are meant to be applied, it is hereby explained that the whole of the said provisions are applicable to joint estates held in common tenancy, *viz.* where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands or *maháls* forming part of the estate held under one general assessment. Many of these provisions however (such as those which direct a compact division of the lands, the selection of lands of equal value for the several sharers and other circumstances relative to an equal partition of the estate) have evidently an exclusive reference to the division of landed property between tenants in common or co-partners with equal rights in every part of the estate, and cannot be applied to portions of estates consisting of specific *maháls* or lands held by purchase or otherwise from the former proprietor and separable from his estate under the Regulations, subject to a proportionate allotment of the public assessment conformably to the rules prescribed in the Regulations cited in section 8 of this Regulation, but remaining annexed to the original estate until the distinct assessment of the separable portion shall have been adjusted and separately engaged for. In such cases the provisions in this Regulation, which respect the adjustment of the assessment, the accounts to be delivered and examined for this purpose, the responsibility of the whole original estate until a distribution of the assessment shall have been finally determined and ratified, and the power which the Governor-General in Council reserves to himself of ordering a new allotment of the assessment in the event of its being proved to his satisfaction within ten years that the allotment made was fraudulent or erroneous, are alone to be considered applicable with the further provisions contained in the

All the provisions of this Regulation explained to be applicable to joint estates held in common tenancy.

The provisions in this Regulation respecting the adjustment of the assessment declared applicable to the case of a specific *mahál* being sold or transferred.

No new allotments to be valid until confirmed by the Board of Revenue or Board of Commissioners, or in case of a reduction of *jamá* by the Governor-General in Council.

present Regulation. But all new allotments of the assessments in the cases here referred to, as in all other cases whatever, shall be reported for the sanction of the Board of Revenue and shall not be deemed conclusive or valid until confirmed by those Boards or, in the event of any reduction of the fixed assessment, until approved by the Governor-General in Council.

A register of all confirmed partitions to be kept.

XXXI. After the date of this Regulation a Register according to the annexed form shall be kept in the English language of all confirmed partitions. This Register shall merely show the name, the recorded proprietor or proprietors and the *jamá* of the estate as it stood when the partition was commenced, with the names, the recorded proprietors and the *jamá* of the several portions thereof made into distinct estates by the partition when confirmed, together with the date of the confirmation; and whenever any such distinct estate (created by partition) shall fall in balance, so as to require a sale of the land for the discharge of the arrear, at any period within ten years of the date of the confirmation of such partition, it shall be the duty of the Collector by every means in his power to trace the cause of such balance, towards ascertaining whether it has arisen from any fraudulent or erroneous allotment of the assessment at the time of the division; and, whatever may appear to be the cause, to make a special and full report upon the case to the Board to whose authority he may be subject, and who will determine upon the receipt of such report whether the sanction of the Governor-General in Council shall be obtained for directing a new allotment of the *jamá* upon the several portions into which the original estate was divided or otherwise.

Collector to report in cases requiring a sale of lands for balances arising from an improper allotment of the *jamá* within ten years.

Rules for discouraging all artificial delays, from impediments thrown in the way by parties.

XXXII. With the view of discouraging all artificial delays in giving possession of their proper shares to sharers entitled to separation in joint estates held in common tenancy, it is hereby enacted that whenever it shall appear to the Board of Revenue that a partition duly proceeded upon is not or cannot be completed within the period originally fixed in the *sanad* to the *Amín*, by reason of any impediments thrown in the way of its completion by the party or parties holding possession of the estate, it shall be competent for those Boards respectively, upon an application being preferred to them to that effect by the sharer who is out of possession (either through the Collector or directly to the Board), to direct immediate possession to be given to such sharer of a certain quantity of the lands of the estate, the assets of which shall be just sufficient (as far as the same can be ascertained) to produce the amount of the *jamá* payable by such sharer when separated (and which in all cases of fractional shares

is of course known) with an advance of from fifteen to twenty per cent. (*viz.* ten per cent. for *malikána* and not less than five nor more than ten per cent. for charges of collection) and no more. This possession is not however to be considered as a final allotment, but the partition is still to proceed in the regular manner with the view to the adjustment of any inequalities of proportion which the assets of the land thus delivered to the possession of the sharers may be ultimately found to bear to the assets of the estate at large, as well as the adjustment of all other points affecting the value of the several shares when divided, so that on the completion of the partition the final allotment of land to the several parties separated according to the *jamá* payable by them may in every respect be conformable to the rules prescribed in sections 7 and 8 of this Regulation.

Rules respecting balances accruing during the partition of a joint estate.

XXXIII. Whenever the partition of a joint estate held in common tenancy shall have been commenced or ordered to be made, whether on the direct application of the parties to the Collector or under a precept from a Court of Justice, if the estate should fall in balance at any time before the partition be completed and confirmed, it shall be in the option of any one or more of the sharers (whether in actual possession of their shares or otherwise) to tender to the Collector his or their proportions of the balance due, which the Collector shall receive and pass to the credit of his or their shares accordingly; and, in the event of a sale of any part of the estate (yet undivided) becoming ultimately necessary for the liquidation of any remaining balance, the portion or portions of the defaulting sharer or sharers only shall be sold, and not those of the sharers who shall have paid their proportions of the balances; and in all such cases the partition shall go on and be completed for the benefit of the purchaser at the public sale, and who on making the purchase will be entitled to separate possession of the portion or portions of the estate which would have been allotted under the partition to the defaulting proprietors (and which in all such instances are to be sold entire) and will in every respect succeed to all their rights.

Rules for preventing delays in allotting the *jama* of specific *mahále* forming part of an estate.

XXXIV. *First.* To provide also, as far as practicable, against any injurious consequences to individuals from delays and difficulties which are observed to attend the allotment of the public revenue upon specific *mahále* forming part of an estate held under a general assessment, when ordered to be separated therefrom, the following rules are to be observed in regard to such *mahále*.

Rules as to balances accruing before the allotment is completed.

Second. Whenever the proprietor of a specific *mahál* in a joint estate shall be entitled to separation under the Regulations, and the separation and allotment of the public revenue upon such distinct *mahál* shall have been commenced upon

or ordered to be commenced upon, if the estate of which it forms a component part should fall in balance at any time previous to the completion and confirmation of such allotment so as to require a sale of the whole or any portion of the estate, it shall be in the option of the proprietor of the *mahál* in question (and to whom immediate possession thereof is to be given if it be not already in his possession) to tender to the Collector his share of the balance due, calculated on the proportion which the produce of such specific *mahál*, with a deduction of from fifteen to twenty per cent. (*viz.* ten per cent. for *malikána* and not less than five or more than ten per cent. for charges of collection) may bear to the *jamá* of the whole estate. Upon such tender being made and the Collector being satisfied from the inquiries made by him and the evidence and documents before him, that the produce of the *mahál* has not been under-rated, he shall receive the amount tendered and pass it to the credit of the *mahál* accordingly; and, in the event of a sale of any part of the estate becoming ultimately necessary for the liquidation of any remaining balance, such sale shall be made with the expressed exception of the specific *mahál* in question, and the separation and final allotment of the *jamá* thereupon shall go on and be completed in the prescribed manner for the benefit of all the parties concerned therein. Provided moreover that if the payment made by the proprietor of the specific *mahál* under this clause shall on a final adjustment of the *jamá* of the parties be found to exceed the true proportion of the balance demandable from him, such proprietor shall be entitled to repayment of the excess from the Collector; who shall at the same time proceed to recover the amount thereof from the defaulting proprietor or proprietors (upon whom a less amount than their just proportions will have been levied) by the same process as he would recover any other arrear of revenue; or, if it shall on the contrary appear that the proprietor of the specific *mahál* has paid less than he ought to have paid, the deficiency shall be recovered from him, and any excess which may have been levied from the defaulting proprietor or proprietors shall be made good to them.

Board of Revenue to be guided by any special orders they may receive from the Governor-General in Council, to whom they are to apply in all cases unprovided for by the Regulations.

XXXV. In the execution of the duties vested in the Board of Revenue by this Regulation, as in all other cases, they shall be guided by whatever special orders or instructions they may at any time receive from the Governor-General in Council, to whom they shall apply in all cases which they may consider unprovided for by the Regulations.

FORM.

REGISTER of Batwáras confirmed, to be kept in the English and Native languages in the Collector's Office, and in the Offices of the Board of Revenue and Board of Commissioners, as required by section 31 *of this Regulation.*

1	2	3	4	5	6	7	8	9	10	11	12	13
Name of the Estate.	Proprietor or Proprietors.	Number of Parganas.	Number of Villages.	Quantity of Land.	Jamá of the entire Estate	Fractional portion.	Proprietor or Proprietors.	Number of Parganas	Number of Villages	Quantity of Land	Jamá of each portion.	Date of confirmation.

[The proprietors of an estate obtained a partition of the jamá under the provisions of s. 10, Act XI of 1859: but no partition of the lands included in the estate was made under the provisions of the above Regulation. A private partition was however made, each sharer taking exclusive possession of a portion of the lands in lieu of his undivided share in the estate. A purchased from one of the sharers 25 *bighás* of the land so held in his exclusive possession, and demanded of the tenant thereof a kabúliyat and rent therefor, that is, for the sixteen annas or entirety exclusive of any interest of the other sharers. The tenant refused to comply with his demand; and he thereupon sued to obtain "by determination of right" possession of the 25 *bighás*, making parties to the suit certain persons who had purchased the shares of other sharers brought to sale under s. 13, Act XI of 1859. *Held* that A could not succeed. All he had was an undivided share in a revenue-paying estate, as there had been no partition of the lands by the Revenue Authorities; and, until there had been such a partition, there was no exclusive share, the right to possession of which he could enforce in the Civil Court—*Gangadúr Misser and another* v *Khirú Mandal*, XXII W. R. 449, and XIV B. L. R. 170.

Jurisdiction of the Civil Courts.

Where a partition was made by the Collector under the Regulation, but before such partition there was an agreement made between two sharers A and B, the effect of which was that A should have the enjoyment of 2¼ bighás, the revenue of which was to continue to be paid by B; and when the Collector at the time of making the partition left them to settle this matter among themselves, the Civil Court entertained a suit by A to enforce the agreement without interfering with the Collector's *batwára* proceedings—*Uma Dutt Chaudhrí and others* v. *Hanuman Chaudhrí and others*, XXII W. R. 453.

A, a co-sharer in an undivided revenue-paying estate, consisting of three *mauzas* G, P and T and other lands, mortgaged his moiety share in G and P, expressly excepting from the oper-

ation of the mortgage deed his moiety share in T. A partition was subsequently made under the above Regulation, and A received the whole of P and T and some other lands in lieu of his undivided share in the whole estate. The mortgagee sought to enforce his lien against the lands allotted to A in substitution of his undivided interest, and their Lordships of the Privy Council held that he was entitled to do so. A's undivided moiety share in T had been excepted from the operation of the deed and was not claimed, but the mortgagee was allowed to proceed against the other moiety allotted in substitution of his interest in G—*Beijnath Lal* v. *Ramudín Chaudhrí*, I L. R. I. A. 106, and XXI W. R. 233.

In connection with the subject of this Regulation may be mentioned the well-established principle, that if one sharer in an undivided revenue-paying estate pay more than his own quota of the revenue upon the default of the other sharer or sharers to pay his or their quota, he will be entitled to recover from such sharer or sharers the excess so paid. This principle will be illustrated by the following cases:—A paid the whole of the revenue on the estate and sued B, who owned a portion of it comprising three villages, for contribution. *Held* that B was equitably liable to pay a fair share. The owner of the whole estate admitted during *batwára* proceedings in 1848 that its value was Rs. 3,834. B purchased his share at an execution-sale, and the gross collections thereon were fixed at Rs. 427. The proportion that Rs. 427 bears to Rs. 3,834 was held to represent the share which B should pay in contribution—*Jagobandú Rai* v. *Feiz Baksh Chaudhrí*, VIII W. R. Civ. Rul. 166. See also *Nogendro Chandra Ghose and another* v. *Srimati Kamini Dasi and others*, XI Moo. Ind. Ap. 241; and *Syud Enayat Hosen* v. *Maddhan Múrí Shahan*, XXII W. R. 411.

Contribution between Co-sharers in respect of payments of Government Revenue.

In the case of *Massamat Chohagur* v. *Jhakúrí Singh and others*, I N. W. P. Rep. Civ. Ap. 123, it was observed that the liability of a defendant to contribute arose not from any contract, but from an obligation resembling a contract in many of its consequences, which the law in such cases creates; and that the period of limitation applicable to such cases is, not three years which applies in cases of breach of contract under cl. 9, s. 1, Act XIV of 1859, but *six years* under cl. 16 of the same section. Three years is the period of limitation now fixed by Art. 100, Sched. II of the Indian Limitation Act, IX of 1871.

A sharer in a revenue-paying estate deposited under Act XI of 1859 the revenue due upon the whole estate, in order to save the property from sale. He sued his co-sharers in a Mafassil Court of Small Causes established under Act XI of 1865 for contribution of their share of the revenue so deposited. It was decided that the equity which plaintiff had to repayment, and which created an obligation similar to what in the civil law was described as a *quasi* contract, did not however create a contract within the meaning of s. 6, Act XI of 1865: and that the suit was not cognizable in a Court of Small Causes constituted under this Act—*Ram Baksh Chittangeo* v. *Madhú Súdhun Paul Chaudhrí, &c*, II In. Jur. N. S. 155; VII W. R. Civ Rul. 377, and B. L. R. Sup. Vol. F. B. 675. See also *Madhú Súdhun Mazimdar and others* v. *Bindú Bashini Dasi and others*, VI W. R. Civ. Ref. 15 & II R. C. & C. R. Small C. C. Ref. 17; *Bramarúp Goswamí* v. *Prannath Chaudhri*, VII W. R. Civ. Rul. 17: and *Kalínath Rai* v. *Nilaram Poramanik*, VII W. R. Civ. Rul. 32.

Plaintiff purchased the share of a *lumberdar* in a pattí, and not his rights and liabilities; and, to save the village from sale, paid off an arrear of land revenue, which had accrued in consequence of a misappropriation committed by the late *lumberdar*. *Held* that plaintiff had a right to call upon his co-sharers to contribute their shares of the amount so paid, and that they had their remedy against the defaulting *lumberdar*—*Fazl Ali and others* v. *Jamna Das and another*, I N. W. P. Rep. Civ. Ap. 229.

A *patnidár*, the lessee of one co-proprietor, cannot be made liable for contribution of revenue paid by another co-proprieter—*Beikantnath Acharji* v. *Gúrú Charan Bose and others*, VII W. R. Civ. Rul. 247 & III R. C. & C. R. Civ. Rul. 166.

A shareholder, who has had a separate account opened for his share under the provisions of s. 11, Act XI of 1859, is not liable for contribution to another shareholder who pays the arrear of revenue due upon the share so separated in account, under the belief that his own interest may suffer if such payment be not made—*Kishen Chandra Ghose and another* v. *Maddan Mohan Mazimdar*, VII W. R. Civ. Rul. 365 & III R. C. & C. R. Civ. Rul. 251.

A purchased from B a fractional share of a pargána, the Government revenue payable on the share thus purchased being Rs. 4,312. It was arranged that the vendee was to apply to the Collector for mutation; that, until the mutation was completed, the vendee was to pay the above quota of the Government revenue through B the vendor; and that after the mutation the connection between them was to be an independent one. *Held* that A was not the tenant of B but a co-sharer by purchase of the same estate, and that the above quota of the revenue payable by A to B was not rent within the meaning of s. 20, Act X of 1859—Wy. Rent Dec. 74.]

REGULATION XXIX OF 1814.

A REGULATION *for the Settlement of certain mahâls in the District of Bírbhúm, usually denominated the Ghâtwâlí Mahâls.*—PASSED *by the Vice-President in Council on the 3rd December* 1814.

Preamble.

Whereas the lands held by the class of persons denominated *ghâtwâls* in the district of Bírbhúm form a peculiar tenure, to which the provisions of the existing Regulations are not expressly applicable; and whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands generation after generation in perpetuity, subject nevertheless to the payment of a fixed and established rent to the *zemindár* of Bírbhúm and to the performance of certain duties for the maintenance of the public peace and support of the Police; and whereas the rents payable by those tenants have been recently adjusted after a full and minute inquiry made by the proper officers in the revenue department; and whereas it is essential to give stability to the arrangements now established among the *ghâtwâls*—the following rules have been adopted, to be in force from the period of their promulgation in the district of Bírbhúm.

The *ghâtwâls* in Bírbhúm and their descendants in perpetuity to be maintained in possession of their lands and not liable to an enhancement of rent.

II. A settlement having lately been made on the part of the Government with the *ghâtwâls* in the district of Bírbhúm, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

The *ghâtwâlí* lands considered to form a part of the *zemindárí* of Bírbhúm, and the rents how to be paid.

III. The *ghâtwâlí* lands shall be considered as at present to form a part of the *zemindárí* of Bírbhúm, but the rents of *ghâtwâls* shall be paid direct to the Assistant Collector stationed at Súrí, or to such public officer as the Board of Revenue with the sanction of the Governor-General in Council may direct to receive the rents.

The difference between the amount of revenue assessed on *ghâtwâls* and the fixed assessment payable to Government, to be paid to the *zemindár* of Bírbhúm.

IV. The difference between the amount of the revenue assessed on the *ghâtwâls* and the fixed assessment of revenue in this portion of the *zemindárí* of Bírbhúm payable to Government shall be paid to the *zemindár* of Bírbhúm and his heirs and successors in perpetuity.

On failure of the *ghâtwâls* to discharge their stipulated rents their tenure how to be disposed of;

and the increase of revenue which may be obtained by that arrangement to be paid to the *zemindár* of Bírbhúm.

V. Should any of the *ghâtwâls* at any time fail to discharge their stipulated rents, it shall be competent for the Governor-General in Council to cause the *ghâtwâlí* tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him in like manner and under the same rules as land held immediately of Government, or to make over the tenure of such defaulter to any person whom the Governor-General in Council may approve on the condition of making good the arrear due, or to transfer it by grants assessed with the same revenue or with an increased or reduced assessment as to the Government may appear meet, or to dispose of it in such other form and manner as shall be judged by the Governor-General in Council proper. Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the *zemindár* of Bírbhúm, his heirs and successors.

Khurruckpore Ghâtwâls.

[The East India Company sought to resume and assess 755 bíghás of land, being a *ghâtwâlí* tenure and part of the zemindárí of Khurrukpore. The decision immediately appealed against was in favor of Government, and proceeded on the ground that the land was in reality land granted for Police establishments, and was therefore liable to resumption and assessment under cl. 4, s. 8, Reg. I of 1793. The Lords of the Judicial Committee of the Privy Council in deciding the appeal drew a distinction between *chakarán* lands and *lakhiráj* lands, the former of which the provisions of the Regulations both of 1789 and of 1793 required to be *included* in the settlement, while the latter were *excluded* therefrom. They observed as follows :—" Although both the lakhiráj lands and the *thannadarí* lands are reserved for further enquiry under these Regulations, there was obviously a great distinction between them with respect to the period at which the decision relating to them was to be made. The *lakhiráj* lands were separate from the *zemindárí*, and were excepted out of the settlement. The validity of the exemption claimed for them depended on the validity of the grants under which it was claimed. Very many were believed to be fraudulent, but each case must depend upon its own circumstances. The investigation of such circumstances might occupy a long time, and a discovery of grounds of suspicion might take place at any period. As they were not to be included in the settlement, no great inconvenience could

arise from delay. But with respect to the allowances for a Police force made by the Government, whether in land or in money, the case was quite different. *They were included in the settlement;* and, if any additional charge was to be thrown upon the landholder in respect of such allowances, it was necessary that it should be ascertained as part of the settlement. No difficulty in ascertaining the fact could possibly exist. The assessment had been very recently made, in some cases indeed was not yet complete; and the officers who made it must be perfectly aware whether any such allowances had or had not been made." Their Lordships then proceeded to point out that, before making the settlement of Khurrukpore, enquiries had been instituted on this very point, and that the Collector had reported that there were no such allowances: nearly two years after which, *viz.* on the 25th January 1796, the Government made a grant to the Rájá (Kadir Ali) of the whole *zemindárí* of Khurrukpore, including the lands in question, to hold to him in perpetuity at the jamá assessed in 1789-90, *viz.* Rs. 65,459-8-10½. They were further of opinion that ghâtwâls were a class very different from, if not superior to, the Police officers contemplated by cl. 4, s. 8, Reg. I of 1793, whom further the landowners were at the time prohibited from continuing to maintain, while the retention of the *ghâtwâls* was well known to Government, as appeared from contemporary correspondence. They therefore decided in favor of the appellant and against Government on two grounds—*first*, that the lands in dispute were not *chakarán* or Police lands within the scope of cl. 4, s. 8, Reg. I of 1793; and *second*, that they formed a part of the zemindárí of Khurrukpore and were included in the settlement thereof, and covered by the land revenue assessed thereon—*Rájá Lílánand Singh* v. *The Government of Bengal*, VI Moo. Ind. Ap. 101.[1]

Subsequently to the above judgment the Government called upon the zemindár, Rájá Lílánand Singh, to furnish the service of the ghâtwâls on which the lands were held. Eventually a compromise was effected between the Government and the Rájá (the Ghâtwáls being however no parties thereto), by which the Rájá agreed to pay a certain annual sum (Rs. 10,000 in addition to the former revenue of the estate) in lieu of those services, which the Government accordingly undertook to perform through their own paid servants, releasing the zemindár from all liability in respect thereof. After having made this arrangement, the zemindár, considering that he had no further occasion for the services of the ghâtwâls, brought a number of suits for the purpose of ejecting them from their lands. In the case of *Manranjan Singh and others* v. *Rájá Lílánand Singh and others* (III W. R. Civ. Rul. 84), it was urged for the zemindár that he was entitled to resume the lands, as the services on which they were held were no longer required. For the *ghâtwâls* it was contended that they were not lessees liable to ejectment, but held a permanent tenure of the character known as *ghâtwâlí;* that it existed long before the Permanent Settlement; and was held at a fixed rent, as set forth in *sánads* derived directly from the representatives of the British Government, and in compensation for service in guarding the mountainous country and passes, which service they have performed, are performing and are able and willing to continue to perform. In support of their case they filed a *sánad* of 17th September 1777, given by a Captain Brown, who appeared to have held the office of Superintendent of the Forest Tracts in those parts. The Calcutta High Court were of opinion that this *sánad* was rather the confirmation of an existing tenure than the creation of a new one; that of the words "mukarrarí" "istimrarí"

Origin and status of Ghâtwâls.

[1] See *Gadadhar Banerji and others* v. *The Government and another*, VI W. R. Civ. Rul. 326, & III R. C. & C. R. 89, in which, although the claim of the Government to khas possession was dismissed, it was intimated that Government might enforce its right to services by ghâtwâls, and compel the nomination of ghâtwâls to render such services.

therein applied to the tenure, the former referred to fixity in respect of rent, the latter to perpetuity in point of time. They observed that there was considerable variety in the tenures known under the general name of '*Ghâtwâlí*' in different parts of the country, but that they all agreed in being grants of land situated on the edge of the hilly country, and held on condition of guarding the *ghâts*[1] or passes; that generally a small quit-rent was payable to the zemindár in addition to the service rendered and with the view of marking the subordination of the tenure; that some of these tenures were *large*, the tenure of the great *zemindár* himself being in some places of this character, while in other places, *e.g.* in Bishenpore, as explained by Harington (Analysis Vol. III, page 510), the *sardár* and superior *ghâtwâls* have *small* and specific portions of land in different villages assigned for their maintenance, being analogous to the *chakarán* assignments of land to village watchmen in other districts, the *ghâtwâlí* tenure differing however from the common *chakarán* in two respects—*first*, that the land was not liable to resumption at the discretion of the landholder, nor the assessment to be raised beyond the established rule; and *secondly*, though the grant be not expressly hereditary and the *ghâtwál* be removable for misconduct, it was the general usage on the death of a faithful *ghâtwâl* to appoint his son, if competent, or some other fit person in his family to succeed to the office. The Judges remarked that these inferior ghâtwâlís seemed to be those in which the zemindár or the ruling power dealt direct with the individuals who did the work, assigning them pieces of land in the established villages, the larger tenures being more of the nature of semi-military colonies. They noticed Reg. XXIX of 1814, which however defines the *status* of *Ghâtwâls* in one district only, *viz. Bírbhúm*, and observed on the terms of the Preamble, which declares that the *ghâtwâls*, "according to the former usages and constitutions of the country, are entitled to hold their lands generation after generation in perpetuity, subject to the payment of a fixed and established rent and to the performance of certain duties." Remarking that the real question was whether the *ghâtwâls* of Khurrukpore were analogous to those of Bírbhúm or were of a different character, they were of opinion that the defendants in the case before them held a tenure analogous rather to those of Bírbhúm than to those of Bishenpore; that, as this tenure had descended in the same family from ancient times and subject to the payment of a fixed rent, there could be no doubt of its hereditary character; that for misconduct and failure to perform the conditions annexed to the tenure the defendants might be liable to be ejected; that no instance can be shown in which a zemindár of his own mere motion ejected a *ghâtwâl* and determined the tenure; and that it was clear that, under the established usage and constitution of the country, he could not do so. The Judges further considered the use of the word "istimrarí" in the *sanad* of 1777 to be strong evidence of the then *status* and to show that at that time, according to the belief and usage of the country, the tenure was of a perpetual hereditary character, and therefore not liable to forfeiture, even were the service no longer required. The Court accordingly decided in favour of the ghâtwâls appellants, who, they considered, held a perpetual hereditary tenure at a fixed rent in money and service, and except for misconduct on their part could not be evicted. This decision was affirmed by the Privy Council, see XII B. L. R. 124.

In another case before the same Judges there was a *sánad* granted, not by Captain Brown, but by Rájá Kadir Ali (the original zemindár at the time of the Permanent Settlement). This *sanad* recited that the táluk had been held as a *ghâtwâlí* jagír from former time, and 'according to the custom' a small quit-rent was reserved and the holder was confirmed in the remaining proceeds, the duty of guarding against murderers and robbers being at the same time recited. The

[1] See *ante*, p. 41, note.

express words "mukarrarí istimrarí" were not used. The Court was nevertheless of opinion that the tenure was precisely of a similar character to that disposed of in the preceding case. They remarked that the *sánad* of Rájá Kadir Ali abundantly showed that the tenures were no new or recent creations, but were handed down from former times; and that, although the word 'istimrarí' was not used, the tenures had in fact been handed down from generation to generation and had become hereditary, whatever their inception may have been; also that the burdens in money and service were not arbitrarily fixed at the will of the zemindár but were regulated by old custom; finally that the *ghâtwâls* could not be dismissed or dispossessed except for some default—*Tekait Manoraj Singh and others* v. *Rájá Lílanand Singh*, II B. L. R. Civ. Ap. 125, note.[1] This decision was also affirmed by the Privy Council, XIII B. L. R. 124.

The next case was that of *Rájá Lílanand Singh, and others* v. *Sarwan Singh*, decided by the same Court (Kemp and L. S. Jackson, JJ.) on the 6th June 1866 (V W. R. Civ. Rul. 292, & II In. Jur. 149). The plaintiff here again contended that, as Government had formally released him from all future responsibility in respect of the *Ghâtwâlí* services in consideration of an annual payment of Rs. 10,000, he was entitled to resume the *ghâtwâlí* tenures. The decision of this case however was made to turn, not upon the broad question of the nature of a *ghâtwâlí* tenure, but upon the construction and effect of a *patta* or lease dated 21st June 1853, by which it was held that the *ghâtwâl* must either stand or fall, inasmuch as under it he had taken up an entirely new position and could not be relegated to his former rights and *status*, which had become extinct. It was pointed out that this case differed from the last, in that no original *sánad* had been produced, such as that granted by Captain Brown and containing the words "*mukarrarí istimrarí.*" The tenure was therefore held liable to resumption, the Court observing—"The contract was clearly one for service; lands were given in lieu of wages; the *jamá* was fixed and was payable as long as service was rendered; and, in the absence of distinct words to the contrary, the employer, the zemindár, is, we think, at liberty to determine the tenure, the services of the employé no longer being required. It is material to observe that the basis of the contract in the present instance was the obligation the zemindár was under to the Government to keep up a police force. That obligation, which was co-extensive with the obligation of the defendant, ceased in 1863; and as the defendant no longer performs services, nor under the altered state of things can service be required from him, his holding under the *patta* (lease) is liable to be determined, and the zemindár is entitled to resume and take possession of the land hitherto held by the defendant." In the Full Bench decision about to be noticed, Peacock, *C.J.* having referred to these remarks, declared that he was unable to agree in the view of the case here taken. Subsequent to the Full Bench decision, a review was applied for, but, after argument, Kemp, *J.* adhered to his original decision, remarking that the lease of the 21st June 1853 neither created, nor confirmed, nor in any way recognized any previous *status*, while in the Full Bench case there was an old *sánad* referring to something that had taken place before, and the grantee was confirmed in his title and his former *status* recognized.

In the case of *Rájá Lílanand Singh and others* v. *Nasib Singh and others*, decided by the same Judges on the 5th July 1866 (VI W. R. Civ. Rul. 80), there was a copy of a copy of a *sánad*, which was held inadmissible in evidence; and it was remarked that, even if it were admissible, it contained no words by which an hereditary indefeasible right could be conveyed: that possession by the defendant for a long period, paying a quit-rent and enjoying the profits of the holding in lieu of wages, would not entitle him to hold the lands at a fixed rent or retain possession of them

[1] III R. C. & C. R. 39.

after he had ceased to perform the duties and indeed could no longer perform them: that he received the lands with a condition of service and in lieu of wages was permitted to enjoy the profits, being liable to dismissal for neglect of duty and entirely subordinate to the zemindár, the Government never attempting to interfere in his appointment or dismissal; that, when the services were no longer required and could not (under the new arrangement made by Government for the Police of the district) be rendered, the tenure lapsed, the title of ghâtwâl ceased, and the right to hold possession determined.[1]

Leading case of *Kúldíp Narain Singh* v. *The Government and others.*

I now come to an important decision of a Full Bench of the Calcutta High Court in the case of *Kúldíp Narain Singh* v. *The Government and others* (B. L. R. Sup. Vol. F. B. 559; II R. C. & C. R. Civ. Rul. 240, and VI W. R. Civ. Rul. 199). The plaintiff here was a purchaser at a sale for arrears of revenue held under Act XI of 1859, and he sought to avoid the *ghâtwâlí* tenure of the defendants and to turn them out, offering (if he were allowed to do so) himself to perform the *ghâtwâlí* services, should Government require their performance. Government had intervened and put in a written statement to the effect that it had not renounced its claim to demand *ghâtwâlí* services and would enforce the demand when necessary. On the part of the defendants a *sanad* was produced dated A.D. 1743, or about twenty-two years before the East India Company obtained the Díwání, by which a grant was made of the tenure as a *ghâtwâlí* tenure to one Mahadeo. The grantee had died before the Permanent Settlement, and was succeeded by his son; and the tenure had passed subsequently from father to son for two or three generations. The very learned Chief Justice (Peacock) was of opinion that the tenure was protected on two grounds—1st, that the *ghâtwâl* had a right in the tenure which it was not in the power of the zemindár to destroy; 2nd, that the plaintiff acquired no right to cancel the tenure by reason of his purchase under the auction-sale for arrears of revenue, and that he stood in no better position than the zemindár with whom the Permanent Settlement was entered into. He considered that, although the *sánad* contained no words of inheritance, and was merely a life-grant to Mahadeo, such a grant, coupled with long usage, such as that which had prevailed in this case, in which the tenure had passed from ancestor to heir without objection for several generations, would be sufficient to show that the grant was a grant of inheritance. He referred to Reg. XXIX of 1814, which, though confined to the Bírbhúm *ghâtwâls*, is a distinct recognition on the part of the Legislature that a *ghâtwâlí* tenure may be an inheritable tenure. He noticed a case in the Privy Council (VI Moo. Ind. Ap. 101) in which it was held that a certain ghâtwâlí tenure (in Bírbhúm) was a *tenure of inheritance*, not by the general heirs according to the Hindú law, but by the eldest

[1] With the above case may be contrasted the observations made in *Maharájá Lilmani Singh Deo* v. *Sheo Tiwari and others*, Suth. Rep. to July 1864, p. 324—"As an ordinary rule, if land is given on a quit-rent, or no rent at all, in consideration of service to be performed, the tenure would lapse when these services ceased. But where no service has been required or performed for a long series of years, and still the tenure has been allowed to be held at a quit-rent or no rent at all, it may be, and no doubt is an important question, whether there has not been such a waiver of service as puts it out of the power of the grantor to resume the tenure simply on the ground that he has now no need of the service for which the tenure was originally created." But see the Full Bench decision which follows above, and the observations of their Lordships of the Privy Council in that case upon the case of *Rájá Lilanand Singh and others* v. *Sarwan Singh*. The tendency of grants of land to become descendible and transferable contrary to the intention of the grantors, at a period when the law of real property was not settled, is common to the West and the East. The history of an *estate-tail* in England and of a *jágír* in India furnishes examples of this tendency. A *jagír* was originally a life tenure not transferable (see *ante*, pp. 53, 54 and 264), yet in *Raja Rameshwar Nath Singh* v. *Hara Lal Singh* (I B. L. R. A. C. 170), it was decided that a *jagír* cannot be resumed on account of alienation by the grantee, so long as there are heirs male of the original grantee alive.

son alone. He also noticed the case of *Har Lal Singh* v. *Jorwaer Singh* (VI Sád. Díw. Rep. 170), in which the nature of these tenures was discussed, and the principle was recognized that lands of this description were held by tenures created long before the East India Company acquired any dominion over the country, and that the nature and extent of the rights of ghâtwâls probably *differed* in different districts and in different families; that the services were not merely for the maintenance of Thana or Police establishments; and that, although they would include the performance of duties of Police, they were quite as much in their origin of a military as of a civil character. In answer to the contention that the lands comprised in the tenure were assessed to the Government revenue at the time of the Permanent Settlement, he pointed out that admitting the fact, which was true, there had been previously to this settlement a quit-rent of Rs. 61 paid for the lands in addition to the ghâtwâlí services—that, in assessing the amount of revenue payable by the zemindár to the Government, the amount in respect of the lands in question had been fixed at the same amount as that which was payable by the holders of the tenure, *viz.* Rs. 61 a year; that, in so fixing the amount, Government must have then considered the tenure to be a permanent one, descendible to heirs, and that the holders of the tenure would continue bound to perform the services. The learned Chief Justice remarked that it was the first time he had ever heard such a contention as that a lord could dispense with the services upon which lands are held, whenever he pleased, and take back the estate; that the estate could not be resumed because the services were released or dispensed with or became unnecessary; that, if the grantor release the services or a portion of them, the tenant may hold the land free of the services, but the lord cannot put an end to the tenure and resume the lands; that many services upon which very valuable estates are held are now of little value, that the estates may become very valuable, and the services almost valueless; that it might as well be contended that, if lands were held at a small quit-rent, the lord might relinquish or dispense with the payment of the rent and take back the lands. With reference to a case cited from the Sádr Díwání Adálat Reports for 1857 (p. 1812), he pointed out that the ground of resumption there was the *default of the ghâtwâl*, which being proved, the resumption was valid. Possibly, if the services were no longer required, the rent might be enhanced, though it was not here necessary to consider this question; but the zemindar certainly could not recover possession of the lands on the ground that he no longer required the services, when the Government had expressly refused to dispense with those very services. With reference to the second ground of his decision, he referred to s. 37, Act XI of 1859, and held that the tenure was protected by its provisions, remarking (*inter alia*) that it was not an incumbrance imposed upon the estate *after the time of settlement*, inasmuch as it was in existence long previously; that the object of the Sale Law was to protect the Government revenue, to take care that a zemindár should not create incumbrances which would make the estate not worth the revenue assessed upon it, but the tenure in question did not fall within the mischief sought to be remedied. The other four Judges, who sat upon the Full Bench, concurred generally in the conclusion arrived at by the learned Chief Justice, though some of them doubted the applicability of the Sale Law to the question to be decided. It may be remarked that the lands in dispute in this case were situate in a pargána adjoining Kurrukpore in the same tract of country and within the same zillah. The decision was affirmed on appeal by the Privy Council (XIV Moo. Ind. Ap. 247, and XI B. L. R. 71).[1]

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[1] As to *ghâtwâls* being protected by sixty years' possession (under cl. 3, s. 3, Reg. II of 1805) in accordance with the decision of the Privy Council in the case of *Chandrabali Debya* v. *Lackhi Debya Chaudhrain* (I In. Jur. 25, and X Moo. Ind. Ap. 214), see the following cases:—*W. Ferguson* v. *The Government & Dwarkanath*

A *ghâtwâlí* tenure was resumed by Government on the 22nd March 1844, and after the death of the *ghâtwâl* was settled with his minor son A. Owing however to default in payment of the land revenue, the property was sold on the 25th February 1858 and was purchased by B. The resumption proceedings were set aside by the Sádr Court on the 29th February 1860, upon which the auction-purchaser, considering that he had no further right, withdrew; and A's mother, as his guardian, took possession, but was opposed by C holding under D, the lessee of the zemindár, Rájá Lílanand Singh. Upon this, A's mother sued to establish A's right to the *ghâtwâlí* tenure and to recover possession with mesne profits. It was urged amongst other things for the defendant—1*st*, that, as plaintiff had acquiesced in the resumption and entered into a settlement for the resumed lands, she had thereby given up all her rights and interests as ghâtwâl and could not now recover; 2*nd*, that the minor never was a ghâtwâl, having never been appointed to the office, as the tenure was resumed in his father's lifetime; 3*rd*, that the appointment and removal of *ghâtwâls* rested with the zemindar alone, and no one, especially a woman, could claim any right to a *ghâtwâlí* tenure without the consent of the zemindár. On the *first* point the Court held that the cancelling of the resumption proceedings virtually cancelled the sale, and that the mere submission to the resumption and settlement proceedings did not extinguish plaintiff's right of action. With reference to the *second* point they were of opinion that the fact of the minor not having been appointed a *ghâtwâl* could not deprive him of any right which he might have had. As to the *third* point they decided that the appointment to the vacant office of *ghâtwâl* rested with the zemindár alone; that, as the necessity for the appointment no longer existed (Government having given up its right to insist on the appointment of persons to the office, and no longer requiring the services of ghâtwâls in Kurrukpore), the zemindar was not bound to appoint; and, as the plaintiff was not entitled to succeed by hereditary right but only on appointment by the zemindár, the suit must be dismissed—*Mahbub Hosen* v. *Patasú Kumárí*, I B. L. R. A.C. 120.

When Government resumed the *ghâtwâlí* lands in the Kurrukpore estate, a settlement was made with the *ghâtwâls* in possession, who agreed to pay half the rates current in that part of the country; and collections were made from them accordingly. When the Privy Council had decided in the case already referred to, that Government was not entitled to resume these lands, Rájáh Lílanand Singh applied for a review of judgment in the other cases involving the same principle. A review was admitted, and a decree was passed in 1860 by three Judges of the Sadr Díwání Adálat, who reversed the order for resumption, but declined to determine the question as to the *mesne* profits which had been realized by Government, on the ground that it was not within the competency of the Court, acting as a Special Commission under Reg. III of 1828, summarily to determine a question of disputed private right of this nature, the more especially as one of the parties interested had not appeared and was probably ignorant that such a question would be raised. From this judgment an appeal was preferred to the Privy Council, who on the 4th February 1864 (IX Moo. Ind. Ap. 479) decided that the Sádr Court had been competent and had had jurisdiction to decide upon the true title to the collections realized by

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Singh, VIII W. R. Civ. Rul. 232, and IV R. C. & C. R. Civ. Rul. 152, confirmed on appeal by the Privy Council, VIII B. L. R. 504, and XIV Moo. Ind. Ap. 259: *James Erskine* v. *Manik Singh Ghâtwâl and others*, VI W. R. Civ. Rul. 10, and II R. C. & C. R. Civ. Rul. 38, referred to in the Note at end of Reg. XIX of 1793, *ante*, p. 254. The first of these two cases was a suit brought by the purchaser of a *patní* tenure to recover possession of land alleged to be held in excess of the *ismnavísí* papers or Police returns, and failing recovery of possession to enhance the rent on account of the excess holding. See as to land held in excess of the *ismnavísí* papers—*Jago Jewan Lal* v. *Roghonath Kapat and others*, VI W. R. Civ. Rul. 197.

Government from the *ghâtwâls* while the resumption proceedings were in force, and that, if unable so to decide with the materials and parties before them, they should have directed an enquiry to ascertain the person or persons entitled. The case was accordingly remitted to India for the purpose of such enquiry and for decision as to who was entitled to the funds in question. On the 25th August 1868, the Calcutta High Court decided that the whole of the money paid by the *ghâtwâls* to the Government in the shape of revenue should be paid over to the zemindár, Rájá Lílanand Singh, partly as the quit-rent due to him, and the remainder as compensation for the loss of the services of the *ghâtwâls* during the period the settlement with the *ghâtwâls* continued in force. The Court observed that the theory of the *ghâtwâlí* lands was, that they were assigned to the *ghâtwâls* for maintenance in payment of police duties and that this remuneration was in lieu of wages in money; that the profits of the lands might therefore be said to represent the money wages, which would otherwise have been paid; that the *ghâtwâls'* remuneration was equal these profits less the quit-rent reserved and (up to the resumption) paid to the zemindár; that, when the lands were resumed and settled, the assessment was made at the current rates of the neighbourhood, which might be said to represent the money value or the wages of the *ghâtwâls'* services; that, as by the terms of the settlement only half these rates were paid to Government, the *ghâtwâls* enjoyed the other half, doing no service therefor, and were thus amply compensated for any loss they might have sustained; that the *ghâtwâls* could have no claim on the half revenue paid to Government, but that the zemindár was entitled thereto as compensation for the loss of the *ghâtwâls'* services. A review of this judgment was applied for, and in support of the application it was urged that the Government settlement had left the zemindar's quit-rent untouched; that the above conception of a *ghâtwâls' status* was opposed to the view taken by the Full Bench and reduced the *ghâtwâl* to a mere servant paid by the profits of land instead of by money wages, an employé under a contract terminable at the will of the zemindár, instead of the possessor of a tenure held on the condition of performing certain services in which he had made no default, that the zemindar could not have been prejudiced by the non-performance of services which were due not to him but to Government, which had prevented the *ghâtwâls* from performing those services while the settlement was in force. The application for a review was rejected, but the reported judgment does not contain any reasons *in extenso* showing the above arguments to be fallacious—*Rájá Lílanand Singh* v. *The Government*, and *Takur Manoranjan Singh* v. *Tehait Loknath Singh*, II B. L. R. A. C. 114.[1] This decree was however varied on appeal by the Privy Council. Referring to the previous case (see *supra*) in which the status of the *ghâtwâls* had been determined, their Lordships remarked that it was then held that the *ghâtwâls* held the lands in question upon a tenure, by which they were liable to a certain rent and also to certain *ghâtwâlí* services, and that, notwithstanding the arrangement between the zemindár and the Government, by which Government had increased the revenue of the zemindárí in consideration of dispensing with the services, the *ghâtwâls* were still entitled to hold their lands upon the tenure upon which they had been granted, entitled to receive the rents and profits thereof, paying to the zemindár the rent reserved upon the tenure; that, applying this principle to the case, it appeared that, when the Government received half the profits of the land for revenue and left only one-half the profits of the land in the receipt

[1] In the case of *R. Watson and others* v. *The Government and others* (B. L. R. Sup. Vol. F. B. 182), the *patnidár* sued to set aside a survey award and alter a map, which demarcated certain lands as belonging to Government and in possession of ghâtwâls. No question touching the *status* of ghâtwâls arose, the sole point being whether the *ghâtwâls* had formerly paid rent to the predecessors of the *patnidárs* for these lands.

of the *ghâtwâls*, the Government were receiving a portion of the profits of the land which ought to have gone to the *ghâtwâls*. They were receiving also a portion of the profits of the land which ought to have gone to the zemindár—in other words, the Government were bound to return the one-half of the profits of the land which they received as revenue, by paying to the zemindár the rent which was due to him under the tenure, and returning to the *ghâtwâls* the remainder of the money. And the decree of the High Court was varied accordingly (XIII B. L. R. 140).

Interest of a ghâtwâl is a life-interest only.

The manager of a minor ghâtwâl's estate, subject to the jurisdiction of the Court of Wards, dispossessed A, B and C, who sued for restoration to possession alleging *mukarrarí* leases granted by the minor ghâtwâl's ancestor more than sixty years previously. It was urged that no ghâtwâl can grant a sub-lease for a period longer than his own life-tenure, and therefore that the manager was entitled to oust A, B and C. The Court decided that A, B and C had been illegally ousted and must be restored to possession, remarking that the ghâtwâls in Bírbhúm (it was a Birbhúm case) were under s. 2, Reg. XXIX of 1814 possessed of estates of inheritance without the power of alienation; that these estates could not be void so long as they performed all the obligations of service and payment of rent to Government incident to the tenure; that it followed that a perpetual sub-lease granted *bonâ fide* by a *ghâtwâl* would be good, not only during the tenancy of the grantor, but during that of his heirs; that such heirs could only set aside their ancestor's act by a regular suit questioning the grantee's title; that the manager under the Court of Wards had no further powers than the minor would have, if managing his own estate, and was not warranted in ousting A, B and C, who must be restored; but the manager, if so advised, might bring a regular suit to contest their title—*The Deputy Commissioner of the Santhal Pargánas, &c.* v. *Ranga Lal Deo, &c.*, Sp. No. of W R. 34, and Marsh. 117. As to a *ghâtwâl* not having power to give a lease of his tenure binding upon a subsequent *ghâtwâl*, and the rights and interests of each *ghâtwâl* in his tenure lasting for his own life only, see also *Jogeswar Sirkar* v. *Nimai Karmakar*, I B. L. R. Short Notes of Cases, vii, which was a Bardwan case; *G. Grant* v. *Bangsi Deo & The Deputy Commissioner of the Santhal Pargánas*, VI B. L. R. 652; and *Benode Ram Sen* v. *The Deputy Commissioner of the Santhal Parganas*, VII W. R. Civ. Rul. 178. The holder of a service-tenure, said to be similar to a *ghâtwâlí* holding, died, leaving three years' rent of the tenure unpaid. He was succeeded by his son, who was sued for this rent, not as the legal representative of his father, but as the person in possession of the tenure. It was decided that he was not liable. The rent was doubtless calculated, it was said, so as to remunerate the holder for his services and also provide for his maintenance and necessary expenses. If the new holder had to pay arrears, he would be deprived of the funds necessary for his support and to enable him to perform the services—*Rájá Nilmaní Singh* v. *Madhab Singh*, I B. L. R. A. C. 195. The surplus proceeds of a ghâtwâli tenure which passes from father to son are not assets by descent, nor are the rents of the tenure in the hands of the heir liable for the debts of the ancestor—*Binode Ram Sen* v. *The Deputy Commissioner of the Santhal Pargánas*, VII W. R. Civ. Rul. 178; III R. C. & C. R. Civ. Rul. 124. See also VI W. R. Civ. Rul. 129.

Statutory power of granting leases con-

Act V of 1859—reciting that it had been decided that the *ghâtwâls* of Bírbhúm, who pay the revenue of their lands directly to Government under Reg. XXIX of 1814, have not the power of alienating their lands, and that for the development of the mineral resources of the country, in which the ghâtwâlí lands are situate, it is expedient to extend to the possessors of such lands the power of granting leases for periods not limited by the term of their own possession—enacted that ghâtwâls holding lands in the district of Bírbhúm under the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other

lands: provided that no such lease for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding, unless the same shall be granted for the working of mines, or for the clearing of jangal, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works; and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner. Section 2 empowers the Court of Wards or the Commissioner to grant similar leases of *ghâtwâlí* lands under the management of the Court of Wards or otherwise subject to the direct control of the officers of Government. Leases not for the above special purposes are not more valid than they were before the passing of this Act.

ferred upon the ghâtwâls of Bírbhúm.

A *ghâtwâl* was dismissed by the Magistrate for not performing the Police service, the performance of which was one of the conditions on which he held the lands. The Commissioner of the Division confirmed the dismissal, and a new *ghâtwâl* was appointed, who took possession of the lands. The dismissed *ghâtwâl* brought a suit in which he contended that his dismissal could not affect his right to continue to hold the *ghâtwâlí* tenure. *Held* that this contention was not sustainable; that he held the lands on condition of performing certain services to Government; that it being admitted that he was liable to immediate dismissal by the Police Authorities, if he failed to perform these services in a proper manner, it followed as a necessary consequence that on dismissal his right to retain the land ceased—*Debí Narain Singh* v. *Srí Kishen Sen and Government*, I W. R. Civ. Rul. 321.

Dismissal of ghâtwâl for failing to render services.

In the case of *Government* v. *Mahárájá Mahtabchand*, II Sev. 96, Government pleaded that, as the *ghâtwâls* were performing Police duties for their lands, they were not open to assessment by the zemindár. It appeared from the evidence that the *ghâtwâls* had been for a long time paying a *quit-rent*, and the payment of this rent was therefore decreed, leaving Government, if it thought proper and if the lands had been excluded from the Decennial Settlement, to sue to have them exempted altogether from the *zemindár's* demand.

Plaintiff sued to obtain possession of a *ghâtwâlí* tenure, alleging that he was entitled to succeed in preference to defendant, who was a female and the mother of the last incumbent—1*st*, on the ground of family custom (*kuláchar*); 2*nd*, in accordance with the Mitakshara law and 3*rd*, because a female was incompetent to perform the duties required of a *ghâtwâl*. On the *first* point the Court held that neither the documentary nor oral evidence afforded clear and positive proof of such ancient and invariable usage as can alone establish *kuláchar* or family custom. On the *second* point the Court were of opinion that the succession to *ghâtwâlí* tenures was regulated neither by *kuláchar* nor by the Mitakshara law, but solely by the nature of the *ghâtwâlí* tenure, which did not admit Hindú law, as leading to sub-division of the land and being subversive of the very object with which the tenure was created. On the *third* point they decided that there was nothing to prevent a female from holding such a tenure, the duty to be performed being not personal service, but acts of superintendence, *viz.* keeping up a body of armed men to protect the *ghâts*, &c. The list of tenures produced in the case and the reported decisions of the Court showed moreover that females had held and had been recognized as capable of holding these tenures—*Mussamat Kustúra Kúmarí* v. *Monohur Deo and others*, Suth. Rep. to July 1864 p. 39: and see also *Tekaet Durga Persad Singh* v. *Tekaetní Durga Kooerí and another*, XX W. R. 154.

Ghâtwâl tenure may be held by a female.

When land forming part of a *ghâtwâlí* tenure in the district of Bírbhúm was taken up for public purposes (under Act X of 1870), it was held that the money paid as compensation

carried with it the incidents of the land itself; and that the *ghâtwâl* for the the time being, having merely a life-interest, was entitled only to the interest of the principal sum during his life—*Ram Chandra Singh* v. *Rájá Joher Jama Khan and others*, XIV B. L. R. Appen. 7, & XXIII W. R. 376.]

REGULATION V OF 1816.

A REGULATION *for establishing the Office of Kánúngo in the District of Cuttack, the Pargána of Puttaspore and the several Pargánas dependent on it.*—PASSED *by the Governor-General in Council on the* 16*th February* 1816.

Preamble.

Whereas the establishment of the office of *kánúngo* in the district of Cuttack, the *pargána* of Puttaspore and its dependencies, may be expected to be of great public benefit in removing the obstacles which have hitherto impeded the revision of the settlement of the district and *pargánas* above mentioned, and in otherwise facilitating the collection of the public revenue and the administration of justice—the following rules have been enacted.

Persons to be appointed to fill the office of *kánúngo*, in each *pargána* in the district of Cuttack, and in the *pargánas* dependent on it.

II. One or two persons shall be appointed to fill the office of *kánúngo* in every *pargána* of the district of Cuttack, in the *pargána* of Puttaspore and in the several *pargánas* dependent on it, unless the small extent of a *pargána* shall render it advisable to place more than one *pargána* under the same *kánúngo*.

In what manner they are to be nominated and removed.

III. These officers shall be nominated by the Collectors of Cuttack and Hidgellí within their respective local jurisdictions, for the approval of the Board of Revenue, and shall not be removable from office except for sufficient cause proved to the satisfaction of that authority.

The office of *kánúngo* not to be considered hereditary.

IV. The office of *kánúngo* is declared not to be hereditary; but in all *pargánas* in which persons may be found who formerly discharged the duties of *kánúngo*, the officers to be appointed under this Regulation shall, as far as practicable, be selected from among them; and in supplying future vacancies the Collectors shall make it a rule in all practicable cases to select from the families of the *kánúngos* such persons as from character, education and acquirements shall be best qualified to perform the duty.

Mode of fixing the salaries of the *kánúngos*.

V. The *kánúngos* appointed under this Regulation shall receive such salaries as the Governor-General in Council may think proper to fix for their support. The salaries so granted shall be considered to preclude all claims to further pecuniary allowances under the denomination of *nankár* or any other

denomination. It is also hereby declared that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of *kánúngo*, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of *kánúngo* under the present Regulation, and to those who may not be employed in the public service. Nothing however contained in this provision shall be construed to preclude the Governor-General in Council from continuing to either of those classes of persons the whole or a part of the lands held by them respectively, free of assesment, in those cases in which the circumstances of the parties may appear to require that indulgence.

The revenue of lands, held by persons in virtue of their office of *kanungo*, liable to resumption; But the Governor-General in Council may continue to the classes of persons mentioned in this section, the whole or any part of the lands held by them, free of assessment.

VI. The above rule is not to be considered applicable to claims to lands held free of assessment or pensions held by the *kánúngos* under grants made to the individuals for reasons unconnected with the office of *kánúngo*.

The preceding section not applicable to claims to lands or pensions held by such persons under grants made to them, unconnected with the office of *kánungo*.

VII. The *kánúngos* are to execute the duties herein specified.

Description of the duties to be executed by the *kánúngos*.

1*st*.—To keep a counterpart *jamá-wasil-bakí* or account of the collections made by the *tehsildárs* or by *sazáwáls* from lands held *khas*, or under attachment.

2*nd*.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector all escheats of such lands to Government

3*rd*.—To keep a list of the *patwarís* in each village and a register of *pattas* granted by the landholders to their under-tenants.

4*th*.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

5*th*.—To compile information regarding local boundaries of *pargánas* and estates, the number and names of villages, articles of produce, rates of rent, rules and customs established in each *pargána;* and to furnish, at the requisition of the Courts of Justice and of the Collectors, all local information within their cognizance.

6*th*.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity with the Regulations or by the landholders or *raiyats*, and to record the same.

7th—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.

8th.—To report to the Collector the death of *sádr malguzárs* and the names of their heirs, and to keep a register of all successions to lands.

Kánúngos prohibited from holding farms, or becoming sureties for farmers or *zemindárs*, within the local limits of their official duties.

VIII. Persons who may be selected to fill the office of *kánúngo* are hereby prohibited from holding farms, or from becoming sureties for farmers or *zemindárs* within the local limits of their official duties.

On the death, resignation or removal of a *kánúngo*, the records of his office how to be made over to his successor.

IX. On the death, resignation or removal of a *kánúngo*, the records of the office are to be made over to his successor, and the Magistrate of the *zillah* is enjoined on the application of the Collector to interpose his authority in all cases in which it may be necessary to enforce the surrender of such records.

Persons refusing to deliver up the records of the office of a *kánúngo*, subject to what penalty.

X. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section, to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending on proof thereof to the penalties prescribed by the Regulations for resistance to the process of the Magistrate.

Powers reserved to the Governor-General in Council of increasing or decreasing the number of *kánúngos* in each *pargána*, or of abolishing the office in any *pargána* where it may be deemed expedient.

XI. Nothing contained in this Regulation shall be construed to preclude the Governor-General in Council from exercising the right of decreasing the number of *kánúngos* or of abolishing the office in any *pargána* where from local circumstances the duty may be performed by less than two persons or by the *kánúngos* in a neighbouring *pargána*, nor from exercising the right to increase the number of *kánúngos* in any *pargána* where from circumstances more than two may be found necessary.

The Collectors of Cuttack and Hidgellí to report, whenever they may deem it expedient to increase or diminish the number of *kánúngos* in each *pargána*.

XII. The Collectors of Cuttack and Hidgellí are enjoined to report to Government through the usual channel all instances wherein they may deem it expedient to increase or diminish the number of *kánúngos* in a *pargána*, with their reasons at large for such opinion.

REGULATION IX OF 1816.

A REGULATION *for the appointment of a Commissioner of Revenue within that portion of the districts of the 24-Parganas, Nádia, Jessore and Backergunge commonly denominated the Sundarbans.*—PASSED *by the Governor-General in Council on the 26th April* 1816.

Preamble.

Whereas it has appeared advisable to appoint an officer for the performance of certain duties connected with the public resources in the tract of country ordinarily called the Sundarbans—the following rules have been enacted.

Appointment of a Commissioner in the Sundarbans. To be vested with the same authority as Collectors. And to be subject to the control of the Board of Revenue.

II. An officer shall be appointed under the appellation of Commissioner in the Sundarbans. The Commissioner in the Sundarbans shall be vested within such local limits, as may be from time to time established by the Governor-General in Council, with all the duties, powers and authority which have been or may be exercised by the Collectors of land revenue (including the charge of the *abkári mahál*) under the Rules and Regulations which have been or may be enacted, and shall be subject to the control and superintendence of the Board of Revenue in the same manner as the Collectors of the several *zillahs* situated within the limits of their authority.

REGULATION XI OF 1816.

A REGULATION *for receiving, trying and deciding claims to the right of Inheritance or Succession in certain tributary estates in Zillah Cuttack.*—PASSED *by the Governor-General in Council on the 10th May* 1816.

Preamble.

Whereas it is necessary that provision should be made for receiving, trying and deciding claims to the right of inheritance or succession in certain tributary estates in *Zillah* Cuttack, which were excepted by section 11, Regulation XIV, 1805 from the operation of the general rules for the administration of civil justice established in the Provinces of Bengal, Bahár and Orissa; and whereas the nature of the tenures by which those estates are held, the character of the inhabitants and other local circumstances render it expedient that the estates in question should not be subject to partition, but should descend entire and undivided to the persons respectively having the most substantial claim according to local and family usage—the following rules have been enacted, to be in force from the date of the promulgation of this Regulation in *Zillah* Cuttack.

[Suits instituted under this Regulation are not affected by anything in Act VIII of 1859. See section 384, *idem*.

Any of the tributary estates specified in section 2 may be placed under the jurisdiction of the Agent for the suppression of Meriah sacrifices—see s. 1, Act XXI of 1845.]

Claims to the right of inheritance or succession to certain tributary estates in Cuttack, how to be tried.

II. All claims to the right of inheritance or succession to any of the undermentioned tributary estates are to be heard, tried and determined in the first instance by the Superintendent of the Tributary *Maháls* in *Zillah* Cuttack.

Killah Nílgerí,	Killah Kindeaparah,
Ditto Bankey,	Ditto Neahgurh,
Ditto Júrmú, *alias* Duspullah,	Ditto Rampore,
Ditto Nursingpore,	Ditto Hindole,
Ditto Angole,	Ditto Tígereah,
Ditto Talcher,	Ditto Burumbah,
Ditto Autgurh,	Ditto Dekenal,
Ditto Keonjur,	The Territory of Mohurbunge.

On what laws and usages such claims are to be decided. Proviso.

III. The Superintendent in deciding cases of the above nature shall be generally guided by the established laws and usages of the respective tributary estates: provided however that the estates above enumerated shall in no case be considered liable to be divided according to the Hindú law, but shall descend entire to the person having the most substantial claim according to local and family usage.

The pleaders of the Civil Court are to attend the Superintendent's Court, and entitled to fees.

V. The established pleaders of the *Zillah* Court shall attend the Superintendent's Court to be held in the Court-house of the *Zillah Adálat*, and they shall receive the same fees as are authorized on the pleading of causes in the *Zillah* Courts, subject of course to the prescribed rules in the cases of paupers.

Rules regarding the issuing of processes by the Superintendent Penalty for resistance of process.

VII. All processes issued in suits instituted under this Regulation shall bear the official seal and signature of the Superintendent, and shall be executed by the officers on his establishment in like manner as all similar processes issued by the Judge of the *Zillah* Court are executed; and any disobedience and resistance to his process shall be liable to a fine to Government to be fixed by the Superintendent, subject to the confirmation of the Court of Sádr Díwání Adálat, or, if the offender be a landholder or *sádr* farmer and the case appear to call for it, by a confiscation of his estate or farm commutable to a fine by the Sádr Díwání Adálat or Governor-General in Council.

Rule to be observed by the Superintendent in the trial of all suits instituted under this Regulation.

VIII. In the trial of all suits instituted under this Regulation, the Superintendent shall be guided by the general rules prescribed for the trial of civil causes before the Judges of the *Zillah* Courts, subject to the special provisions contained in this Regulation or, in points not specially provided for, to any qualification of the general rules, which may be found expedient and may be sanctioned by the Court of Sádr Díwání Adálat.

IX. It shall not be requisite to use stampt paper for the plaints, pleadings, decrees or any papers relative to suits instituted under this Regulation, nor shall any *darkhást* on stampt paper be required for the admission of exhibits or the issue of summonses to witnesses in such suits when tried in the first instance or in appeal.

Stampt paper shall not be required in these suits.

XI. In all suits decided and orders passed by the Superintendent under this Regulation an appeal from his decisions and orders shall lie to the Court of Sádr Díwaní Adálat; provided that the petition of appeal be preferred within three months after the decree or order appealed from shall have been passed.

An appeal may be made from the Superintendent's decision to the Sádr Díwání Adálat.

XII. The petition of appeal shall be presented to the Superintendent and shall contain a full and explicit statement of the appellant's objections to the decree or order from which he is desirous to appeal. The appellant, if not admitted as a pauper under section 10, shall at the same time tender good security for the payment of any costs which may be adjudged on the determination of the appeal by the Sádr Díwání Adálat, or if unable to give such security shall make oath or subscribe a solemn declaration to his inability, or adduce two creditable persons to prove the same.

Rules to be observed on admitting a petition of appeal.

XIII. On receipt of the petition of appeal with the prescribed security, or proof of inability required in failure thereof, the Superintendent shall cause a copy to be made of the decree or order from which the appeal may be required, and within fifteen days shall certify and transmit the same with the petition of appeal to the Court of the Sádr Díwaní Adálat.

Duty of the Superintendent on receipt of a petition of appeal.

XIV. *First.* When the Court of Sádr Díwání Adálat may admit the appeal, they will cause a precept to be issued under the seal of the Court and the signature of the Register, addressed to the Superintendent, requiring him, within such period as may be limited by the precept, to furnish a complete record of all papers received and proceedings held in the case, and also to call upon the respondent or respondents for his or their answer, or to appear in person or by *vakíl* within a certain time before the Sádr Díwání Adálat and deliver his or their answer to that Court.

Course to be pursued if the petition of appeal be admitted by the Sádr Díwání Adálat.

Second. The Superintendent on receipt of the precept shall comply with the exigency thereof as required or, in the event of his not being able to carry the same into complete execution within the prescribed period, shall certify the same to the Court of Sádr Díwání Adálat with notice of the period within which a further return will be made.

The Superintendent to comply with the exigency of precepts of the Sádr Díwání Adálat.

The parties may plead their own causes in appeal, or may appoint *vakils*, or may deliver their proceedings to the Superintendent of the Tributary *Maháls*. Duty of the Superintendent in such cases.

XV. It shall be optional with appellants and respondents in appeals to the Sádr Díwání Adálat under this Regulation to attend in person or by *vakíl* for the prosecution or defence of their appeals before that Court, or to deliver their proceedings to the Superintendent of the Tributary *Maháls*, who in the latter case shall forward them as soon as received to the Sádr Díwání Adálat, and communicate to the parties any orders which may be issued by that Court.

The Sádr Díwání Adálat may either refer the cause back to the Superintendent, or direct further evidence.

XVI. In cases wherein it may appear to the Court of Sádr Díwání Adálat that the cause in appeal has not been sufficiently investigated and consequently that further evidence is required for the just determination of it, that Court is empowered to refer the cause back for further trial and judgment to the Superintendent or to direct that further evidence be taken and transmitted to the Court.

The provisions of section 3 declared applicable to the decisions passed by the Sádr Díwání Adálat.

XVII. The provisions contained in section 3, by which the decisions passed by the Superintendent are to be governed, shall be considered equally applicable to the decisions of the Sádr Díwání Adálat in all appeals under this Regulation.

Also the principles of sections 5, 8 and 9 of this Regulation.

XVIII. The principles of the several provisions contained in sections 5, 8, 9 of this Regulation shall also be considered applicable to all appeals from decisions or orders of the Superintendent of the Tributary *Maháls* in *Zillah* Cuttack, which may come before the Court of Sádr Díwání Adálat.

The execution of the decree passed by the Superintendent to be postponed, if the appellant shall give sufficient security.

XIX. *First.* In cases of appeal to the Sádr Díwání Adálat from any decree or order of the Superintendent involving a transfer of property or any change in the actual possession of property, the decree or order appealed from shall not be carried into execution during the appeal to that Court, provided the appellant shall give good and sufficient security for the performance of the final decision which may be passed upon the appeal; and in no instance shall the Superintendent cause to be carried into execution any such decree or order passed by him, until the period allowed for the appeal may have elapsed.

If appellant fail to give security, the decree shall be executed, provided the respondent gives sufficient security.

Second. In the event of the appellants not giving security for staying the execution of the decree appealed from and of its being consequently put into execution whilst an appeal is pending, good and sufficient security shall be taken from the respondent for the performance of the final decision which may be passed upon the appeal.

In case neither party shall be able to give the

Third. In case neither party shall be able to give the requisite security, the estate in dispute shall be attached by order of the Superintendent, until the

security required shall be received or until the final determination be passed by the Sádr Díwání Adálat upon the case.

requisite security, the estate in dispute shall be attached.

Fourth. No decree or order, whether of the Superintendent of the Tributary *Maháls* or of the Sádr Díwání Adálat, involving a transfer of the property or an actual change in the possession of any of the estates enumerated in section 2 of this Regulation shall be carried into execution without a previous communication being made by the Sádr Díwání Adálat to Government, in order that sufficient time may be afforded for the adoption of any precautionary measures which may be eventually judged requisite to support and enforce the execution of the decree or order without hazard to the public tranquillity.

Previous to the execution of any decree whether of the Superintendent or of the Sádr Díwání Adálat, a communication must be made to Government.

REGULATION V OF 1817.

A REGULATION *for declaring the rights of Government and of individuals with respect to Hidden Treasure, and for prescribing the rules to be observed on the Discovery of such Treasure.*—PASSED *by the Governor-General in Council on the* 28*th February* 1817.

Whereas the provisions of the Mahomadan and Hindú laws respecting the discovery of hidden treasure differ materially, and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered—the following provisions are enacted to be in force as soon as promulgated throughout the provinces immediately subordinate to the Presidency of Fort William.

Preamble.

II. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones or other valuable property, may be found buried in the earth or otherwise concealed within any part of the territory subject to this Presidency, and after due notification the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lákh of sicca rupees, and provided the finder or finders shall have conformed to the rules prescribed in this Regulation.

Hidden treasure under what circumstances and conditions to become the property of the finder.

V. It shall be the duty of the Collectors of land revenue, acting under the instructions of the Board of Revenue, to bring forward and to support in conformity with the foregoing provision any claim of right which Government may appear to possess to such treasure. In the event of any claim of right being preferred either on the part of individuals or of Government, pursuant

Collectors of land revenue to bring forward any claim of right which Government may appear to

possess to such treasure.

Summary inquiry to be instituted by the Judges of *Zillah* Courts.

How judgment to be awarded by the Judge.

to the prescribed notification, the Judge shall institute a summary inquiry into the claim preferred and, if the title of Government or other person so claiming the treasure in deposit or any part thereof be clearly established, he shall adjudge the same accordingly, subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may in each case appear just and reasonable.

What judgment to be passed by the Judge, in cases in which no claim shall be preferred either by Government or by individuals, and the amount may not exceed one lákh of sicca rupees.

VI. If no claim of right be preferred either by Government or by an individual, or if the claim or claims so preferred shall not on a summary inquiry appear to be well-founded, and the amount or value of the hidden treasure found at the same time or in the same place shall not exceed one lákh of sicca rupees, the *Zillah* or City Judge shall adjudge the same to the person or persons who may have discovered the treasure, subject only to the actual expense which may have been incurred in adopting the measures prescribed by this Regulation.

Decision to be passed by the Judge in cases in which the amount of treasure shall exceed one lákh of sicca rupees, and no claim of right thereto be established.

VII. If the amount or value of any hidden treasure found at the same time or in the same place shall exceed one lákh of sicca rupees and no claim of right thereto be established, judgment shall be given according to the preceding section in favor of the person or persons who may have discovered the treasure to the amount of one lákh of sicca rupees, and the excess above that sum shall be declared at the disposal of Government.

Persons discovering hidden treasure, who shall neglect to give due notice within one month, shall be considered to have forfeited all right and title to the treasure and compensation.

VIII. If any person, discovering hidden treasure of the description specified in section 2 of this Regulation, shall not within one month after finding the same give notice to the Judge of the *Zillah* Court, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation or reward under the provisions of this Regulation; and the treasure so clandestinely withheld from public investigation shall on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs or, if no private claim be established, shall on the application of the *vakíl* of Government under instructions from the Board of Revenue be liable to confiscation to Government.

The summary decisions of the Judges of the *Zillah* Courts shall be open to a summary appeal.

IX. The summary decisions of the Judges of the *Zillah* Courts, which may be passed under this Regulation, shall be open to a summary appeal.

[See *In the matter of the petition of Umacharn Bannerji*, VII B. L. R. Appen. 3, in which case a zemindár who claimed a treasure found by his servants was held not entitled to it, because he had not com plied with the provisions of this Regulation.]

REGULATION XII OF 1817.

A REGULATION *for securing the better administration of the Office of Patwárí in the Ceded and Conquered Provinces, the Provinces of Bahár and Benares, the District of Cuttack, the Pargána of Puttaspore and its dependencies.*—PASSED *by the Vice-President in Council on the* 12*th August* 1817.

Preamble.

The existing Regulations regarding *patwáris* have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature in regard to the possession and property of land. The reform of the office appears therefore to be an object of the highest importance; but, as for the full attainment of that object the establishment of *pargána kánúngos* is also requisite, it is deemed advisable to confine the operation of the rules to be enacted for the above purpose to those parts of the country in which *kánúngos* are already established, or in which arrangements are in progress for the revival and organization of that office.—The following rules have therefore been enacted to be in force throughout the Ceded and Conquered Provinces, the Provinces of Bahár and Benares, the district of Cuttack, the *pargána* of Puttaspore and the several *pargánas* dependent on it.

[From the note to s. 36, it will appear that the provisions of this Regulation are now generally applicable in the Province of Bengal.]

Every village to have a separate *patwárí*, unless where otherwise directed by the superintending Revenue Authorities.

III. Every village paying or liable to pay the public revenue shall have a separate *patwárí*, except in cases where the Board of Revenue or other authority exercising the power of that Board shall, in consideration of former usage or other sufficient cause, authorize one *patwárí* to do the duty of two or more villages, or direct two or more *patwáris* to be established in a single village.

Vacancies in the office of *patwárí* to be filled up on the nomination of the *zemindár*, &c.

Which is to be made within one month after vacancy has taken place.

Rules to be observed by the *zemindár*,

VII. Whenever a vacancy may occur in the office of *patwárí*, such vacancy shall be filled on the nomination of the *zemindár* or other landholder or farmer engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector of the district within one month after the vacancy has taken place; provided however that in such nomination the *zemindár* or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of *patwáris*, and shall not deviate therefrom without previously obtaining the sanction of the Collector; and it shall be the duty of the Collectors carefully to

&c. in the nomination of *patwáris.*

see that this rule is observed, and particularly that the just rights of the inferior *pattídárs* or sharers in joint undivided estates and of dependent *tálukdárs,* or other under-tenants of the lands, as connected with the appointment of *patwáris* are duly maintained.

How the Collector is to proceed on receiving the nomination of a *patwárí.*

VIII. On receiving the report of the nomination of a *patwárí,* as directed to be made in the foregoing section, the Collector is to insert the name of the party in the Register of *patwáris* for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue, the Board of Commissioners, or the Commissioner in Bahár and Benares, as the case may be, and the Board or Commissioner will decide whether the *zemindár* or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Rules regarding *patwáris* in joint and undivided estates.

IX. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound to nominate a *patwárí* in the mode prescribed in this Regulation, or to show sufficient cause for their failing to do so.

Rules regarding *patwáris* in *khas* estates.

X. In estates held *khas* and in estates under the superintendence of the Court of Wards the *patwárí* shall be appointed by the Collector.

Penalty in cases of refusal or omission to comply with the prescribed rules.

XI. Should any *zemindár* or other proprietor or farmer refuse or omit to nominate a *patwárí* in the cases provided for in this Regulation, within the time prescribed in those sections, and shall fail to show good cause for such neglect and failure, it shall be competent to the Collector with the approval of the Board of Revenue to levy a daily fine upon him, until a *patwárí* is nominated, or with such approval himself to nominate a qualified person for the office.

[See s. 6, Reg. I of 1819.]

Zemindárs how to proceed, whenever they may wish to remove a *patwárí* from office.

XII. Whenever a *zemindár* or farmer engaging with Government for the public revenue may wish to remove a *patwárí* from office, he is to state his reasons for so doing to the Collector of the district, who, if they appear good and sufficient, will authorize the removal of the *patwárí,* but not otherwise.

Penalties for removing a *patwárí* from office without authority.

XIII. Any *zemindár* or other landholder or farmer of land, removing a *patwárí* from office without the authority of the Collector obtained in the mode prescribed in the preceding section, shall be punished by a fine not exceeding fifty rupees for the first offence, and one hundred rupees for the second

offence; and, if it should appear on investigation by the Collector that the removal was unjust and without sufficient cause, the said *zemindár* or other landholder or farmer of land shall be further subject to a daily fine, with the approbation of the Board of Revenue, until the *patwárí* be restored.

[See s. 7, Reg. I of 1819.]

Patwáris may be removed on sufficient grounds on the representation of the under-tenants.

XIV. Whenever the inferior *pattídars* or sharers, or the *raiyats* or under-tenants of a village may petition the Collector for the removal of a *patwárí*, the Collector shall direct such removal and shall call upon the *zemindár* or other landholder or farmer of land engaging with Government for the public revenue to appoint another *patwárí*, provided the reasons adduced for praying such removal appear to the Collector good and sufficient, but not otherwise.

Rule of proceeding on occasions when the Collector may desire the removal of a *patwárí*.

XV. Whenever a Collector shall see ground to desire the removal of a *patwárí* for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue who will authorize the removal or not as may seem proper.

Specification of duties to be performed by the *patwáris*.

XVI. The duties of the *patwárí* shall be,

1*st*.—To keep such registers and accounts relating to the village or villages to which he is appointed in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue, together with such further registers and accounts as may be directed by those authorities respectively.

2*nd*.—To prepare and deliver to the *kánúngo* of the *pargána* at the expiration of every six months a complete copy of the aforesaid accounts, showing distinctly the produce of the *kharíf* and *rabí* harvests.

3*rd*.—To perform all other duties and services, which it has been customary for him to execute.

The superintending Revenue Authorities to determine on the mode of transmitting and recording the *patwáris'* accounts.

XVII. The Board of Revenue will determine on the mode in which the accounts rendered by the *patwárí* to the *kánúngo* shall be brought forward by the latter and recorded in the office of the Collectors.

Rules for the payment of *patwáris*, and for the adjustment of their allowances in certain cases.

XVIII. The *patwárí* is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors to complete an account of the mode in which such payment is made in the different *pargánas* or other local divisions of their districts, and to submit the result of their

researches to the Board of Revenue or other authority exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority aforesaid, with the sanction of the Governor-General in Council, to increase or reduce the amount of remuneration paid to the *patwáris* and to alter or modify the mode of its payment in any case in which sufficient cause for the adoption of such a measure shall exist.

Remuneration to be paid to *patwáris* in villages where none are now appointed.

XIX. Where no *patwárí* has hitherto been appointed, the amount of the remuneration to the *patwárí* who may be appointed under this Regulation and the mode of its payment shall be regulated by the Collector with reference to the usage of the adjoining villages.

Rule of proceeding in cases where payment of the established remuneration to a *patwárí* may be refused.

Collector empowered to compel payment and to fine the offending party.

XX. If the remuneration which a *patwárí* has heretofore regularly received, or which may be assigned to him by the Collector or other competent Revenue Authority, be denied to him by the parties who have hitherto paid it or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector, who will proceed to an immediate investigation of the facts and decide according to the usage of the village; and the Collector is hereby authorized to compel payment of the amount due to the *patwárí* and to fine the offending party according to his situation and circumstances in life, provided always that the fine in no instance exceed fifty rupees.

The local usage of the *pargána* to be reported by the *pargána kánungo*.

XXI. In all cases in which the decision of the Collector is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the *kánúngos* of the *pargána* as to the custom or usage in reference.

Collector empowered to summon a *patwárí* when necessary.

And to examine him on oath to the truth of his account.

Form of the notice to be used on such occasions.

XXII. Collectors of land revenue are hereby empowered to summon the *patwárí* of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him; and to examine him on oath to the truth of such accounts and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said *patwárí* may belong. When a Collector shall require the attendance of a *patwárí* for the purpose above stated, he is to serve such *patwárí* with a written notice under his official seal and signature, stating the purpose for which his attendance is required and the papers (if any) which he is to bring with him.

XXIII. If any *patwárí* shall neglect or omit to produce his original accounts on the requisition of a Collector or to give his evidence respecting them, the Collector is hereby authorized and empowered to cause the said *patwárí* to be apprehended, and to order him to be confined in the *díwaní* jail of the district until he produce his accounts or show sufficient cause for not producing them. In such cases the *patwárí* shall be sent by the Collector with a *rubakárí* to the Judge of the *zillah*, stating the purport of the order passed against him; and the Judge shall on those grounds commit the *patwárí* to jail and detain him until he produce the accounts, or until the Collector applies for his release.

Powers vested in the Collector to compel the *patwáris* to produce their accounts.

Process to be observed on such occasions.

XXIV. In like manner *patwáris* shall produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice in any suit that may be depending before the Court; and if any *patwárí* shall neglect or omit to attend with his accounts, when required for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such *patwárí* to be committed to close custody until he produce the accounts or show sufficient cause for not having produced them.

Patwáris to produce their accounts when required by the Courts of Justice.

Penalty in cases where a *patwárí* may neglect or omit to attend with his accounts.

XXV. In any case in which a Collector of land revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the *patwáris* to attend such officer, and the Collector is further empowered to grant to such officer a commission to swear the several *patwáris* whose accounts are to be inspected, inserting in the commission the name of each *patwárí* to be sworn; and if any such *patwárí* shall neglect or refuse to attend such officer with his accounts or to give his evidence respecting them, when duly required to do so by a written notice from the Collector, the Collector is hereby authorized and empowered to proceed against such *patwárí* in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector himself.

Collectors empowered to require the attendance of *patwáris* on officers deputed to examine village accounts.

And to grant a commission to swear *patwáris*.

Penalty in case a *patwárí* shall neglect or refuse to attend on a deputed officer.

XXVI. Any *patwárí* giving intentionally and deliberately a false deposition on oath, when examined before a Collector or the officer of a Collector duly empowered to take his examination, relative to the lands, produce, collections and charges of the village or villages to which he belongs, shall be held and considered guilty of perjury, and shall be liable on conviction to the penalties which are or may be prescribed for that offence; and any person causing or procuring a *patwárí* to commit the offence of perjury as above described is hereby declared guilty of subornation of perjury and punishable.

Patwáris giving deliberately a false deposition on oath declared guilty of perjury, and on conviction liable to the prescribed punishment.

And persons causing or procuring a *patwárí* to commit perjury, declared punishable as suborners of perjury.

Patwáris falsifying or mutilating the village accounts, liable to the prescribed punishment of forgery.

XXVII. In like manner any *patwári* who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the *kánúngo* or Collector false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery and shall be liable on conviction to the penalties which are or may be prescribed for that offence; and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

Certain rules in the existing Regulations declared still in force, unless distinctly rescinded, altered or modified by this Regulation.

XXVIII. The several rules in the existing Regulations, by which proprietors and farmers of lands sold, or ordered to be sold or divided, or under attachment, are required to attend, or cause their officers to attend the Collectors or officers deputed by a Collector, with the accounts relating to such lands, and by which such landholders and farmers and their agents are declared responsible for the fidelity and accuracy of such accounts, are to be held and considered in full force, unless where they may be distinctly rescinded, altered or modified by this Regulation.

Collectors empowered to require the attendance of all native agents of proprietors whose estates are about to be sold, transferred or divided.

And may cause them to be examined on oath touching the accounts of those lands.

Penalty if such agents shall refuse or neglect to attend on the Collector.

XXIX. In like manner, whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector shall be authorized to require the attendance of all descriptions of native agents employed by the proprietors or farmers of such estates or farms in the management of their lands or keeping the accounts relating to them, and to examine or cause them to be examined on oath touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this Regulation to require the attendance and to take or cause to be taken the examination of *patwáris*; and, if such agents shall refuse or neglect to attend the Collector or his officer when their attendance may be duly required, or to give their evidence, the Collector is authorized and empowered to proceed against them in the same manner as is prescribed in the case of *patwáris* refusing or neglecting to attend.

Rules contained in sections 26 and 27 declared applicable to all such native agents.

XXX. Provided further that the rules contained in sections 26 and 27 shall be held and considered applicable to all such native agents employed by proprietors or farmers of land in the management of their estates or farms or in keeping the accounts relating to them.

How a Collector is to proceed in cases not provided for by this Regulation, whenever he may require the

XXXI. Whenever a Collector of land revenue or other officer vested with the powers of a Collector may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a *zemindár* or other proprietor or farmer of lands or of the

gomashta or other officer or agent of such proprietor or farmer with the accounts of such lands, he shall report the circumstance to the Board of Revenue and the Boards are hereby empowered to grant authority to the Collector or other officer aforesaid to require the attendance of the proprietor or farmer or of the *gomashta* or other officer or agent with all accounts relating to the lands in their possession or management.

Attendance of proprietors or farmers with their accounts.

XXXII. A written notice shall in such cases be issued by the Collector or other officer to the party whose attendance is required, stating the purpose for which he is summoned and the papers (if any) which he is to bring with him; and, if the proprietor or farmer shall omit or refuse to attend or cause his officer or agent to attend by the time prescribed in the Collector's requisition with the accounts and information required, the Board of Revenue are authorized and empowered to impose upon him such daily fine to be payable daily until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life, reporting however the amount for the information of the Governor-General in Council. The fine when confirmed by Government is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Collector how to proceed on such occasions.

Penalty for omitting or refusing to attend when summoned.

Under what process such penalty is to be levied.

XXXIII. In cases in which from local or other sufficient causes it may appear impracticable or inexpedient to cause the appointment in any estate or farm of *patwáris* in the mode prescribed in this Regulation, as for instance in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small *maháls* the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue to suspend its operation in such estates or farms; provided however that in all such cases the person by whom the village accounts are kept, whether proprietor or farmer or *gomashta* or other officer, shall furnish the *kánúngo* of the *pargána* with such accounts and statements as the Collector with the approval of the Board may direct, and shall be subject to the provisions contained in sections 22, 23, 24, 25, 26 and 27 of this Regulation, and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in sections 26 and 27.

Provision in cases where the appointment of village *patwáris* may be considered inexpedient.

XXXIV. No Court of Judicature shall take cognizance of the complaint of a *patwárí* against the landholder or the tenants of a village for refusing to remunerate his labors, nor shall any Court of Judicature take cognizance of any complaint against a Collector for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

In what cases the Courts of Justice are prohibited from taking cognizance of the complaints of *patwáris*.

Collectors to furnish a periodical report of all judgments passed under section 20 of this Regulation. Such judgments declared liable to reversal or alteration by the Board or Commissioner within six months.

XXXV. It shall be the duty of the Collectors to furnish the Board of Revenue with a periodical report of all judgments passed by them under section 20 of this Regulation, and such judgments shall be liable to reversal or alteration by the Board or Commissioner at any time within six months after passing the same, but not later.

How sums adjudged and fines levied under the provisions of this Regulation are to be recovered.

All fines to be credited to Government.

XXXVI. All sums adjudged by the Collector in favor of a *patwárí* under section 20, and all fines directed to be levied by this Regulation shall be recoverable by the same processes as arrears of the public revenue; and all such fines when recovered shall be carried to the account of Government.

[The provisions of this Regulation were by s. 3, Reg. XIII of 1817 extended to the District of Midnapore and the tracts subject to the Collector of Hidgelí; and by s. 3, Reg. I of 1818 to the districts of the 24-Parganas, Nádía, Jessore, Dacca Jelalpore and Backergunj and by cl. 2, s. 3, Reg. I of 1819 to the Province of Bengal generally.]

REGULATION XX OF 1817.

A REGULATION *for reducing into one Regulation with amendments and modifications the several rules which have been passed for the guidance of Daroghas and other Subordinate Officers of Police, for modifying the existing rules concerning the Resistance or Evasion of Criminal Process, and for requiring further Aid to the Police in certain cases from Proprietors and Farmers of Land, and their Local Managers, as well as from the Mandals and other Heads of Villages.*—PASSED *by the Vice-President in Council on the 7th October* 1817.

VILLAGE WATCHMEN.

Daroghas shall keep a complete list of village watchmen. *Zemindárs* or other authorized persons to nominate a successor on the occurrence of a vacancy.

XXI. *First.* It shall be the duty of the *daroghas* of Police, under the guidance and instruction of the Magistrate, to prepare and keep up at their *thanas* a complete Register of the village watchmen employed within the limits of the authority of the said *daroghas* respectively, drawn out after the form No. 6 of the Appendix; and, upon the death or removal of any of the watchmen, the landholders and other persons, to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the *darogha* of the jurisdiction, that they may be registered by him as above directed.

[Watchmen are variously denominated in Bengal—chaukidars, paiks, pásbáns, nigahbans, goraits, &c.]

Second. The village watchmen are declared subject to the orders of the Police *daroghas.*

Village watchmen subject to Police *daroghas.*

Third. Village watchmen, who may reside within one *coss* of the *thana* station to which they may be subject, shall report daily to the *thana* all occurrences connected with the Police, which may have happened in their respective villages during the preceding twenty-four hours. Village watchmen residing from one to three *coss* distant from the *thana* shall furnish similar reports twice every week; and all other watchmen, whose residence may be situated at a greater distance, shall report once in every week or fortnight, as they may be specially instructed by the Police *darogha* so to do.

Rule for the delivery of reports of watchmen, residing at a certain distance from the *thanas.*

[A *coss* is a measure of distance which varies in different parts of the country, from one to two miles, but is generally about two miles.]

Fourth. All occurrences reported by the village watchmen shall be recorded by the *muharrars* in the *thana* diaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communications to make further than that the peace of their divisions has been undisturbed since their last report.

Occurrences reported by the village watch to be entered in *thana* diaries.

Fifth. The village watchmen shall apprehend and send to the *darogha* or other Police officer presiding at a *thana* any person who may be taken in the act of committing murder, robbery, house-breaking or theft, also proclaimed offenders and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence. It shall futher be the special duty of the village watchmen to convey to the *thana* immediate intelligence of any robbers, who may have concealed themselves in their respective villages or in the adjacent country, and also of any vagrants or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves. It shall likewise be the business of the village watchmen to convey early intimation to the *thana* of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Proclaimed offenders and those taken in the commission of public offences shall be sent to the *thana* by the village watchmen, who shall give the earliest intelligence of the residence of offenders and commission of crimes.

Sixth. The report of the village watchmen to the Police officers of the regular establishment shall be made verbally, and they shall not, unless they appear as prosecutors, be sworn to their depositions at the *thanas,* or be detained at the *thanas,* or sent into the Magistrate's Court, unless on account of misconduct or under the special orders of the Magistrate.

Rule for receiving the reports of village watchmen.

[Under the Code of Criminal Procedure, Police officers have no power to administer an oath in any case.]

Supervision to be exercised by the *darogha*.

Seventh *Daroghas* of Police shall invariably ascertain and report, when making enquiries on the occasion of any robbery, burglary or theft, the conduct of the village watchmen, and whether they were present at their posts when the offence was perpetrated; if not, the cause of their absence and whether there may be reason to believe, that they were themselves concerned in or connived at the commission of the crime. In the event of any neglect or suspicion of criminality attaching to a village watchman, the *darogha* shall either send the individual to the Magistrate with a separate report of the grounds of the charge exhibited against him and evidence to establish the same, or shall forward a report in the first instance and wait the instructions of the Magistrate, as the nature of the alleged offence may dictate. In the event of any gross neglect or misconduct in the discharge of his duty as a Police officer being established against a village watchman, he shall be liable to dismission from his station, by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality under the Laws and Regulations in force.

Penalty upon proof of negligence or abuse.

[Magistrates have no power under this Regulation to *fine* village watchmen for misconduct not amounting to a criminal offence.]

Watchmen not to be employed on *daroghas'* private concerns.

Eighth. The *daroghas* or their Police officers are prohibited, under penalty of dismission from office, from employing the village watchmen on their private concerns or on any duties unconnected with the Police.

In places where regular Police establishments may be stationed, duties of watching by whom to be performed.

Ninth. In those towns and villages, where the *daroghas* of the *mufassal* police jurisdiction or the officers of out-posts may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police officers and the village watchmen; and private watchmen entertained by individuals for guarding their habitations, shops or warehouses shall also afford their assistance and be considered subject in the performance of this duty to the orders of the Police *daroghas* of the station.

The village watchmen to resist robbers to the utmost of their power; and to require *zemindárs* and headmen to lend their assistance in the pursuit and apprehension of criminals. Penalty for their refusal.

Tenth. On the occurrence of a gang or highway robbery, or any robbery by open violence, murder, burglary or theft attended with wounding, or any other heinous offence attended with a violent breach of the peace, the village watchmen shall to the utmost of their ability resist and endeavour to apprehend the offenders and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled; and it shall be incumbent on the inhabitants of the villages, through which or near to which the pursuit may lie, to afford on the requisition of the village watchmen or other Police officer every practical assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen

or plundered by them, continuing the pursuit from village to village. Any headman or watchman of a village, who may be convicted before the local Magistrate of wilful inattention to such requisition, shall be liable to fine and imprisonment not exceeding the limitation prescribed by section 19, Regulation IX, 1807.

[Reg. IX of 1807 has been repealed. Under section 19 of this Regulation Magistrates could pass sentence of imprisonment not exceeding six months, with corporal punishment not exceeding thirty rattans in cases of theft, or in other cases with a fine not exceeding Rs. 200 commutable, if not paid, to a further period of imprisonment not exceeding six months.]

ABKARI.

Daroghas shall assist, on the oath of an authorized revenue officer, in distraint for arrears of *abkari* revenue.

XXVIII. *First.* Whenever an officer on a Collector's establishment, duly authorized to distrain property on account of arrears of revenue due from any manufacturer or vendor of spirituous liquors, *tari, patchwai* or intoxicating drugs including opium, may be resisted in the enforcement of the Collector's process, he shall on certifying such resistance on oath before a *darogha* of police receive the aid of the regular police officers of the *thana* in effecting the attachment, and the police officers shall be guided in their proceedings in regard to entering and searching houses for property belonging to defaulters by the rules prescribed in this Regulation for their conduct in cases of distraint for arrears of land rent as far as the same may be applicable.

Further rule for the assistance of revenue officers.

Second. *Daroghas* of Police shall support the officers of the *abkari mahál* in the execution of search-warrants issued under the seal and signature of the Collector for the discovery of unlicensed stills or of the produce of such stills.

In such cases, *zenanás* of respectable persons shall not be entered.

Third. It is provided in the Regulation cited in the preceding clause, that such search-warrants shall be executed only in the day time, that is, between sunrise and sunset, and, if possible, in the presence of two or more respectable inhabitants of the village in which the house or place proposed to be searched may be situated. It is further provided that in the execution of such warrants the apartments of the women in houses belonging to persons of respectability and credit, that is, of all those classes whose women do not ordinarily appear in public, shall not be entered by the Collector's officers or by the officers of the police.

Rules to be observed by vendors of spirituous liquors.

Fourth. The licensed vendors of spirits and drugs are bound by the conditions of their licences not to harbour robbers, thieves or riotous persons, nor to receive any goods or wearing apparel in barter for liquors or drugs: they are also bound not to open their shops before sunrise, nor keep them open after sunset, and are enjoined not to harbour any person in their shops during the night,

but to give information to the nearest Magistrate or police officer of any suspected persons who may resort to their shops.

Daroghas shall report infractions of those rules.

Fifth. The *daroghas* of Police are enjoined to report to the Magistrate any breach of the foregoing conditions which may come to their knowledge. They will also proceed against any licensed vendor of spirits or drugs, who may be charged with a criminal offence cognizable by them, according to the general rules in force which are applicable to the charge.

EXECUTION OF CRIMINAL PROCESS IN THE COMMERCIAL, SALT AND OPIUM DEPARTMENTS; AND DUTIES OF DAROGHAS RELATING TO THOSE DEPARTMENTS.

Security for the appearance under Salt or Opium Agents, accused of bailable offences, how to be given.

XXIX. *First.* In all bailable cases where it may be necessary under the provisions of this Regulation to summon or apprehend any manufacturer, *malangi* or any officer or person employed in the Salt or Opium Department, the *daroghas* of police shall transmit the summons or warrant under a sealed cover addressed to the Salt or Opium Agent, or the head native officer of the *aurang, kothi* or *chauki,* who will either give or direct sufficient security to be given for the due attendance of the party, certifying on the back of the process the manner in which it has been served and by whom the security has been given, or causing the defendant to accompany the officer bearing the *darogha's* process to the *thana.*

In such cases the accused shall not be forced to appear till after the manufacturing season.

Second. In cases of a bailable nature in which a person under engagements and employed in the Salt or Opium Department may be summoned under the provisions of the preceding clause during the manufacturing season, the *darogha* of police shall with the view of preventing unnecessary interruption to the manufacturer require the party summoned to appear in person or by *vakil* either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the *darogha* shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

Rule for serving summonses on witnesses employed in the Company's *aurangs,* and form of their recognizance.

Third. Summonses to manufacturers, *malangis,* or to any officers or persons employed in the Salt or Opium Department to attend as witnesses shall be served in the manner directed by the preceding clauses of this section; but the Salt or Opium Agent, or the head native officer of the *aurang, kothi,* or *chauki* shall, instead of requiring the person summoned to give security or proceed to the *thana,* take from the witness a recognizance, agreeable to the form No. 13 of the Appendix and shall deliver the same to the officer serving the process.

Fourth. If a charge shall be preferred to a police *darogha* against any *malangi* or any other manufacturer, or any officer or person employed in the Salt or Opium Department for an offence that is not bailable, and there shall appear to the *darogha* of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person and shall be executed in the same manner as upon persons not so employed. But the *darogha* after securing the offender is to give notice of his apprehension to the Salt or Opium Agent, or to the head officer of the nearest *aurang*, or *kothi* or *chauki*, as the case may be.

Warrants for offences not bailable, shall be served upon persons so employed as upon others.

The *darogha* giving notice to the Agent.

Fifth. The officers of police shall comply with applications made to them by a Salt Agent or Superintendent of a salt *chauki*, or by the officers attached to the Salt Department, or by any Agent or Collector of revenue or customs, for assistance in effecting the seizure of alimentary salt illegally imported, manufactured, sold or transported; and also for the seizure of adulterated common alimentary salt and for the attachment of the cattle, carriages or boats used in transporting such salt.

Doroghas shall assist in the seizure of illicit salt.

Sixth. If any officer of police shall receive information of any salt not made in the Company's Provinces having been illegally imported into the said territories, or of salt of any description being transported without the proper *rawánas or charchittis*, or of any salt being manufactured on account of individuals by *malangis* or other persons at the *khalaris* or salt works established by individuals for the purpose of manufacturing salt on their own account or that of any other person, or of the adulteration of alimentary salt by mixing with it the substance called "*karinún*" or other substance such as "*natron*" or native fossil *alkali* or the vegetable *alkali* or *potash*—such police officers shall transmit immediate notice thereof to the nearest officer in the Salt Department empowered to attach contraband or adulterated salt, and to the Magistrate to whose immediate orders the said police officer may be subject.

Shall give notice of all illicit importation, adulteration or manufacture of salt.

Seventh. The police officers shall confine themselves to sending the information aforesaid to the nearest officer in the salt department and to the Magistrate, and to assisting in the seizure of the salt either under the orders of the Magistrate or on application from the officers of the Salt Department, and shall not seize or detain any salt in the first instance of their own authority, except when they may have been vested by order of the Governor-General in Council with special authority for making such seizures, in which case they will receive separate instructions for their guidance in the performance of that duty.

They shall not seize in the first instance of their own authority.

Penalty for the unwarranted seizure of salt by *daroghas.*

Eighth. In all cases in which it may appear that an attachment or seizure of salt has been made by an officer of police without the special orders of the Magistrate or an application from any public officer authorized to require the assistance of the police officer, by whom such attachment may be made, he shall be liable to dismission from office and, on the institution of a regular suit in the *Díwání Adálát* on the part of the proprietor, to the payment of full damages to the whole amount of the loss and expense to which the proprietors may have been subjected.

Daroghas enjoined to suppress the illicit cultivation of opium.

Ninth. All officers of Police are strictly enjoined under pain of dismission from office to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium.

Penalty for omitting to send information.

Twelfth. Any police *darogha,* who shall knowingly permit the cultivation of the poppy within his jurisdiction or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall besides being liable to dismission from office for neglect of duty be further subject on conviction before the Magistrate of the *zillah* to the payment of the fine stated in section 31, Regulation XIII, 1816, for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance, and the fine if not duly paid shall be commutable to imprisonment for a period not exceeding six months.

[So much of this section as relates to the execution of criminal process in the Salt Department, saving so far as it repeals any other Regulation, &c. ceased to have effect in the Bengal Division of the Presidency of Fort William from the time that Act VII (B.C.) of 1864 came into operation—see Chronological Table.]

MISCELLANEOUS RULES REGARDING FORTS, ARMED MEN, MILITARY STORES, DRESS OF SÍPÁHÍS OR LASHKARS, AND BADGES, PUBLIC ROADS AND INSANE PERSONS.

Daroghas shall report all circumstances that may appear to be dangerous to the public peace.

XXX. *First.* The *daroghas* of Police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or *garhí,* or collecting together any quantity of arms, ammunition or military stores.

Shall apprehend all unauthorized persons dressed in the uniform of Company's *sípáhís.*

Second. The *daroghas* of Police are required to apprehend and send to the Magistrate all persons not actually in the Honorable Company's military service or belonging to persons specially exempted by Government from the operation of the rule contained in the section abovementioned, who may be found dressed in the uniform of the Company's *sípáhís* or *lashkars,* or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for *sípáhís* and *lashkars.*

Fifth. The *daroghas* of Police shall prevent all encroachments on the public roads and shall at the same time report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his *thanadari* proceedings.

Daroghas shall report encroachments on the public roads.

DESPATCHES OF TREASURE.

XXXII. *First.* The *daroghas* of Police are enjoined to afford assistance on application from the revenue officers for the safe custody and conveyance of despatches of treasure, and to allow such despatches to be deposited during the night for better security within the house allotted for the *thana.*

Daroghas to afford assistance and security to dispatches of Government treasure.

Second. The *daroghas* of Police shall likewise, as far as their other duties will admit, afford protection to dispatches of treasure belonging to bankers and merchants, on application from the person in charge of the same.

And as far as possible of bankers and merchants also.

APPENDIX.

FORM No. 6.

Register of Village Watchmen and Alphabetical List of Villages.

Names of villages.	Distance and direction from the Thana Station.	Names of the proprietors or managers, and situated in what Pargána.	Names of the Chaukídárs or watchmen attached to each village.	Estimated number of houses in each village.	REMARKS.

FORM No. 13.

Recognizance to be taken from a Witness.

Whereas I ————, inhabitant of ————, have been named as a witness in the case of ————; I hereby engage to appear before the Magistrate of the *zillah* (or city) of ————, on or before the ————, for the purpose of giving evidence; in default whereof, I hereby further bind myself to pay such fine to Government as the Magistrate may judge proper to impose upon me, as well as any expense that may be incurred, in consequence of my non-attendance, for compelling my appearance: in this I will not fail: dated (according to the current era).

REGULATION III OF 1818.

A REGULATION *for the Confinement of State Prisoners.*—PASSED *by the Vice-President in Council on the 7th April* 1818.

Preamble.

Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that in every case of the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor-General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor-General in Council all circumstances relating either to the supposed grounds of such determination or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of *zemindárs*, *tálukdárs* and others, situated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue Authorities without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals, whose estates may be so attached under the direct authority of Government—the Vice-President in Council has enacted the following rules, which are to take effect throughout the provinces immediately subject to the Presidency of Fort William from the date on which they may be promulgated.

Mode of proceeding for placing individuals under restraint as State prisoners.

II. *First.* When the reasons stated in the preamble of this Regulation may seem to the Governor-General in Council to require that an individual should be placed under personal restraint without any immediate view to

ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor-General in Council and under the hand of the Chief Secretary or of one of the Secretaries to Government shall be issued to the officer in whose custody such person is to be placed.

[See s. 3, Act III of 1858.]

Second. The warrant of commitment shall be in the following form:— Form of warrant to be issued.

To the (*here insert the officer's designation.*)

Whereas the Governor-General in Council, for good and sufficient reasons, has seen fit to determine that *(here insert the State prisoner's name)* shall be placed under personal restraint at (*here insert the name of the place),* you are hereby required and commanded in pursuance of that determination to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor-General in Council and the provisions of Regulation III of 1818.

Fort William, the ———

By order of the Governor-General in Council,

A. B.

Chief Secy. to Govt.

Third. The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William. Such warrant to be sufficient authority for the detention of any State prisoner.

III. Every officer in whose custody any State prisoner may be placed shall on the 1st of January and 1st of July of each year submit a report to the Governor-General in Council through the Secretary to Government in the Political Department on the conduct, the health and the comfort of such State prisoner, in order that the Governor-General in Council may determine whether the orders for his detention shall continue in force or shall be modified. Officers in whose custody State prisoners may be placed, to submit to Government periodical reports.

IV. *First.* When any State prisoner is in the custody of a *Zillah* or City Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions and they are to issue any orders concerning the treatment of the State prisoner, which may appear to them advisable, provided they be not inconsistent with the orders of the Governor-General in Council issued on that head. State prisoners in the custody of the *Zillah* or City Magistrate, to be visited by the Judge.

State prisoners in custody of a public officer not being a *Zillah* or City Magistrate, to be visited by such persons as may be nominated by Government for the duty.

Second. When any State prisoner is placed in the custody of any public officer not being a *Zillah* or City Magistrate, the Governor-General in Council will instruct either the *Zillah* or City Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner.

Representations which may be made by State prisoners, to be submitted to Government.

V. The officer in whose custody any State prisoner may be placed is to forward with such observations as may appear necessary every representation which such State prisoner may from time to time be desirous of submitting to the Governor-General in Council.

Early report to be made to Government, regarding the nature of the confinement, the health and the allowances granted to State prisoners.

VI. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor-General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life.

The allowance fixed for the support of a State prisoner to be duly appropriated to that object.

VII. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

Rules for the attachment of estates or lands by the orders of Government without a previous decision of a Court of Justice.

IX. Whenever the Governor-General in Council for the reasons declared in the preamble to this Regulation shall judge it necessary to attach the estates or lands of any *zemindár, jagírdár, tálukdár* or other person without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted and such other information connected with the case as may appear essential shall be communicated under the hand of one of the Secretaries to Government to the Judge and Magistrate of the district, in which the lands or estates may be situated and to the Sádr Díwání Adálat and Nizámat Adalat.

Lands or estates so attached to be placed under the management of the officers of Government in the Revenue Department.

X. *First.* The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles as those of other estates held under *khas* management.

Second. Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts or for the realization of fines or otherwise during the period in which they may be so held under attachment.

And not liable to be sold on account of decrees of the Civil Courts or otherwise, while under attachment.

Third. In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

The Government will make such arrangement as may be proper, for the satisfaction of the decrees of the Civil Courts in such instances.

XI. Whenever the Governor-General in Council shall be of opinion that the circumstances, which rendered the attachment of such estate necessary, have ceased to operate and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

Rules to be observed in cases where Government may order the release of an estate from attachment.

[In connection with this Regulation should be read Acts XXXIV of 1850 and III of 1858.

Section 1 of Act XXXIV of 1850 enacts that the warrant for confinement of any State prisoner may be directed to the Sheriff of the Gaol of any of the Supreme (High) Courts, or to the Commandant of any fortress or to the officer in charge of any jail, &c. to whom, when having any State prisoner in custody, the provisions of this Regulation are extended by s. 2 of the same Act.

Section 5, Act III of 1858 empowers the Governor-General in Council to direct the removal of any State prisoner from one to another place of confinement.

The provisions and effect of this Regulation and these Acts were discussed at great length in the following cases:—*In the matter of Amír Khan*, VI B. L. R. 393, and on appeal, VI B. L. R. 459: *The Queen v. Amír Khan*, IX B. L. R. 36 These cases decided (1) that the Regulation and Acts were passed by legislative authority fully competent to pass them, and were not *ultra vires*: (2) that a writ of *habeas corpus* ought not to issue against a person detaining a prisoner under the written order or warrant of the Governor-General in Council made under the Regulation: (3) that the detention is legal if covered by an existing warrant in the prescribed form without regard to the lawfulness of the arrest: (4) that the Regulation is not confined to prisoners of war or foreigners held in confinement for political reasons: and (5) that the Governor-General in issuing a warrant of commitment under the Regulation does not act judicially or as a Court of Justice, nor is he to be considered to have adjudicated that the person placed under personal restraint has been guilty of some specific offence, so as to enable him in any future proceeding taken against him to raise a successful plea of *autrefois convict.*]

REGULATION I OF 1819.

A REGULATION *for replacing the districts of Dinajpore and Rungpore under the management of the Board of Revenue, for extending the authority of the Board of Commissioners in Bahár and Benares to the district of Goruckpore, for re-establishing Kánúngos and reforming the office of Patwárí throughout the Province of Bengal, and for explaining and modifying certain parts of Regulation XII,* 1817.—PASSED *by the Governor-General in Council on the 5th February* 1819.

Kánúngos to be appointed throughout the Province of Bengal, for the performance of the duties prescribed in Regulation V, 1816.

IV. *First. Kánúngos* shall be appointed throughout the Province of Bengal in the same manner and for the performance of the same duties as are prescribed in Regulation V, 1816 in regard to the District of Cuttack, the *Pargána* of Puttaspore and its dependencies, and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal.

Regulation XII, 1817 extended to the several districts in the Province of Bengal.

Second. The provisions of Regulation XII, 1817 are in like manner hereby extended to the several districts of the said province to which they have not yet been applied.

Selection and nomination of the *kánúngos* in certain cases may be entrusted to other persons than the Collectors.

Third. Provided however that in cases, in which it may not appear advisable from whatever cause to leave the selection and nomination of the *kánúngos* to the Collector of the district, it shall be competent to the Governor-General in Council to appoint such other officer specially to perform that duty, as he may judge expedient; and the officer so appointed shall have and exercise, during such period as the Governor-General in Council may direct, the same powers as are vested generally in Collectors of land revenue under the provisions of Regulation V, 1816 and Regulation XII, 1817. But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general Rules and Regulation applicable to that branch of the public service.

Powers reserved to the Governor-General in Council to suspend the operation of the rules regarding *kánúngos* and *patwáris* in special cases.

Fourth. Provided further that it shall be competent to the Governor-General in Council to suspend the operation of the rules contained in this or any former Regulation regarding *kánúngos* and *patwáris* within any *maháls* in which the establishment of such officers as prescribed in those rules may appear to be inexpedient.

The Board of Revenue declared

Fifth. Provided likewise that it shall be competent to the Board of Revenue or other authority exercising the powers of that Board to make such

alteration in the duties to be performed by *kánúngos*, as local circumstances shall suggest, anything in section 7, Regulation IV, 1808 and other corresponding enactments to the contrary notwithstanding.

competent to make such alteration in the duties to be performed by *kánúngos*, as local circumstances may suggest.

Sixth. Provided also that it shall be competent to the Board of Revenue to suspend by proclamation the operation of the rules of Regulation XII, 1817 in the districts of Chittagong and Sylhet and in any other parts of the country, in which individual estates may generally be of inconsiderable extent, until they shall have determined under the discretion vested in them by sections 3, 18 and 33 of that Regulation the number of *patwáris* to be appointed or retained, the mode in which they are to be remunerated and the *maháls* to be permanently exempted from its general operation.

And may suspend the operation of Regulation XII, 1817 in certain districts and parts of the country.

V. In all cases in which any village or villages or any lands whatsoever, the accounts of which may be kept by a singe *patwárí*, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector with the approval of the Board of Revenue or other authority exercising the powers of that Board to assume the direct nomination and appointment of such *patwárí* with or without a reference to the proprietors. But in all such cases the Collector shall deviate as little as possible from established usage and shall be careful to consult the inclinations and maintain the interests of all persons connected with the *maháls* in question.

The Collector declared competent to assume the direct nomination and appointment of a *patwárí*, in certain cases.

VI. In explanation of section 11, Regulation XII, 1817 it is hereby declared and enacted that if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4 of that Regulation within the period therein prescribed or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector, it shall be competent to the Collector or other officer aforesaid with the approval of the Board of Revenue or other authority exercising the powers of that Board to levy a daily fine upon such proprietor or farmer until the statement required be furnished, to such amount as may appear proper with reference to the circumstances of the case and to the condition in life of the offender.

Explanation of section 11, Regulation XII, 1817.

VII. The penalties prescribed in section 13, Regulation XII, 1817 for the illegal removal of a *patwárí* from office by a *zemindár* or other proprietor or farmer of land are hereby declared applicable to all persons whatsoever, who may without due authority remove from office any *patwárí* duly constituted or appointed, or who may oppose a *patwárí* so appointed or constituted in the performance of his duties, or who may prevent his performing them, or who may resist or evade the entry of a *patwárí* when duly appointed into the possession of his office.

All persons who may without due authority remove a *patwárí* from office or oppose him in the execution of his duties, declared liable to penalties.

REGULATION II OF 1819.

A REGULATION *for modifying the provisions contained in the existing Regulations regarding the Resumption of the Revenue of Lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the Revenue of Lands not included within the limits of estates for which a settlement has been made.*—PASSED *by the Governor-General in Council on the* 12*th February* 1819.

Preamble.

The rules contained in Regulations XIX and XXXVII, 1793 relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and the corresponding provisions enacted in subsequent years having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified. Those rules however are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective. It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers or of individuals, to declare generally the right of Government to assess all lands, which at the period of the Decennial Settlement were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period nor lands held free of assessment under a valid and legal title; and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a Permanent Settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud or on any pretext whatever, saving of course *mahâls* expressly excluded from the operation of the settlement. With the view therefore of establishing on proper principles one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals—the following rules have been enacted, to be in force from the date of their promulgation throughout the provinces immediately subordinate to the Presidency of Fort William.

Lands not included in the Decennial Settlement, or for which a distinct settlement may not have been

III. *First.* It is hereby declared and enacted that all lands which at the period of the Decennial Settlement were not included within the limits of any *pargána, mauza* or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment

under a valid and legal title of the nature specified in Regulations XIX and XXXVII, 1793 and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled *mahâls*, and the revenue assessed on all such lands whether exceeding out hundred *bíghás* or otherwise shall belong to Government; provided however that nothing in the above rule shall be construed to affect the rights reserved to *zemindárs*, *tálukdárs* and other proprietors of estates, with whom a Permanent Settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure free of assessment within the limits of their respective estates and *táluks*, and of which the extent may not exceed one hundred *bíghás* if in Bengal, Bahár or Orissa, and fifty *bíghás* if within the Province of Benares.

concluded, are liable to assessment excepting lands held free of assessment under a valid and legal title. Proviso.

Second. The foregoing principles shall be deemed applicable, not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all *churs* and islands formed since the period of the Decennial Settlement and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks.

The same principle applicable to *churs* and alluvion lands.

Third. The same principle shall likewise be deemed applicable to all lands, which though included at the period of the Permanent Settlement within the limits of *táluks* held by individuals under special *pattas* from the Collector, such as the *patítabadi* and *jangalbúrí táluks* in the districts of the 24-Pargánas and Jessore, may not have been permanently assessed at the abovementioned period; provided however that in respect to such lands, if in the possession of the original *patta*-holder or his legal representative, the conditions of the *patta* in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

Also to lands included within *táluks* of a particular description.

Proviso.

IV. The several rules prescribed in Regulations XIX and XXXVII of 1793, and Regulations XLI and XLVII of 1795, Regulations XXXI and XXXVI of 1803, Regulations VIII and XII of 1805, for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under *mukarrarí* or other tenures limiting the demand of Government; provided however that nothing in this section shall be construed to affect the rules contained in Regulation VIII, 1793 relative to the assessment of lands held under valid grants or leases of the above nature, nor to alter the provisions contained in Regulation I, 1815 by which tenures of that description are declared liable to assessment on the death of the grantee.

Application of certain provisions of existing Regulations to grants for holding lands under *mukarrari* or certain other tenures.

Proviso.

Course of proceeding preparatory to an investigation regarding the liability of such lands to be assessed.

V. *First* Whenever a Collector of revenue or other officer exercising the powers of Collector shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment or at an inadequate *jamá*, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue or other authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector or other officer aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

[Sections 5, 6, 8, 10, 11, 13, 15, 22 and 30 of this Regulation are modified, more especially as to the proceedings of Collectors employed in making settlements, by cl. 1, s. 5, Reg. IX of 1825, the provisions of the following clauses of which section should be read with the above-mentioned sections of this Regulation (II of 1819).]

Notice to be served on the party.

Second. The Collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice stating the demand of Government on the lands and requiring him to attend either in person or by *vákíl* within the period of one month, and to produce all *sánads* or other writings in virtue of which he may possess the lands or under which they may have been or may be claimed to be held free of assessment or at a fixed *jamá*.

Or to his agent, if any accredited agent reside at the *sádr* station

Third. If the persons whose lands it is proposed to assess have an accredited agent at the *sádr* station with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a *chaprásí* or *peon* of the Collector.

Notice on the principal to be served through the *Názir* by a single *peon*.

Fourth. If the person the revenue of whose lands it is proposed to resume shall not have an accredited agent at the *sádr* station of the description above mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the Collectorship, it shall be served on him through the *Názir* of the Collector by a single *chaprásí*, or *peon*, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent or of any person acting for him during his absence. If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector of the district in which the party may reside to be served in the manner above directed. If the party be neither resident within

the Collectorship in which the lands in question may be situated nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

Notice how to be served if the party reside in another jurisdiction.

Fifth. Provided always that if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service—such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

If an acknowledgment be refused, the tender to be considered as sufficient notice.

Sixth. The Collector shall in the notice summoning the party warn him, that if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received, unless he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him.

What to be contained in the notice.

VI. *First.* If the holder of such lands, to whom a notice may have been issued as directed in the preceding section, shall abscond or is not after diligent search to be found or shall shut himself up in any house or building or retire to any place, so that the notice cannot be served upon him, the Collector or other officer exercising the power of Collector on receiving the *nazir's* return to this effect shall issue a proclamation, to be affixed in some conspicuous part of his *kachahrí.* The proclamation shall be written in the Persian and Bengal languages in the Provinces of Bengal and Orissa (including Cuttack); and in the Hindústání language and Nagri character in Bahár; and it shall contain a copy of the former notice and a further notification to the party, that if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector will proceed without further notice to hold the inquiry *ex parte.* The Collector or other officer exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up with all practicable dispatch on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within or in the neighbourhood of the lands proposed to be assessed.

If notice cannot be served, a proclamation to be issued.

What is to be contained in the proclamation.

Copy of the proclamation where to be fixed up.

Second. The *Nazir* shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up. The return of the *Nazir* shall be filed with the Collector's proceedings in the case. If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if having appeared he shall refuse to give answer, the Collector shall proceed to

Názir's return how to be made.

If the party shall not appear, or shall refuse to answer, the case to be investigated.

investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof.

What inquiry to be made.

VII. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation the Collector or other officer exercising the powers of the Collector shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the Decennial Settlement, and in cases of alluvion land into the period of its formation.

Collector with the sanction of the Board may cause a survey or measurement to be made.

VIII. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector with the sanction of the Board of Revenue or other authority exercising the powers of that Board previously obtained, to cause a survey or measurement to be made of all such lands and of the estate to which such lands may be alleged to belong.

Collector may summon *patwáris* and require accounts, and examine on oath;

IX. It shall likewise be competent to the Collector in all cases of inquiry held under the provisions of this Regulation to summon the *patwári, gomashta* or other person by whom the accounts relating to the lands proposed to be assessed or to the estate to which the lands may be alleged to belong are kept, and to require him to produce all accounts relating to such lands or estate and to examine him on oath to the truth of such accounts and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation XII of 1817.

And may require the attendance of the person claiming the land, with his accounts.

X. It shall be further competent to the Collector in such cases, with the sanction of the Board of Revenue or other authority exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed or of the estates to which they are alleged to belong, to attend either in person or by representative and to produce all the accounts relating to such lands or estate within a reasonable period not being less than one week.

Notice to be served on such person.

XI. *First.* Whenever the Collector or person exercising the powers of Collector shall require the attendance of any proprietor or farmer or of any *patwári* or *gomashta* or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him and the period within which he is to attend.

[See cl. 2, s. 19, Reg. VII of 1822.]

Second. Provided further that the rules contained in section 3, Regulation XIV, 1793 regarding the mode of serving process for the recovery of arrears of revenue shall be held applicable to process issued by a Collector or other officer exercising the powers of a Collector under the provisions contained in sections 9 and 10 of this Regulation, excepting always so much of the said rules as prescribes that the *peon* serving the summons shall be paid by the party in whose name it is issued.

Such notice to be served in conformity with section 3, Regulation XIV, 1793.

Exception.

XII. If any *patwárí, gomashta* or other person by whom the accounts of lands are kept and who may be summoned by a Collector or Commissioner under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector or Commissioner when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands or to the estate to which such lands are stated to belong, he shall be and be held liable to the pains and penalties specified in sections, 23, 26 and 27 of Regulation XII, 1817, according as the provisions of one or other of those sections may be applicable to the offence committed by him.

Penalties on *patwáris* neglecting to produce accounts, or falsifying them, or giving false evidence regarding them.

[See cl. 2, s. 19, Reg. VII of 1822.]

XIII. *First.* If the holder of any lands, in regard to which the Collector shall have been authorized by the Board of Revenue or other authority exercising the powers of that Board to institute the inquiry described by section 7 of this Regulation, shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's requisition, the Board of Revenue or other authority exercising the powers of that Board shall be competent to direct the lands to be immediately attached and the rents collected on account of Government in the same manner as if the lands were the property of Government. In such cases however it shall still be the duty of the Collector to make a full inquiry into the title of the holder of the lands and to transmit his proceedings to the Board, who will decide whether the lands shall be deemed permanently liable to assessment.

Lands may be attached, if the holders of them neglect to furnish accounts.

In such cases a full inquiry to be made by the Collector into the title of the holder.

Second. Provided further that if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue Authorities and shall produce any accounts or documents beside such as he may have delivered to the Collector, the accounts or documents so produced shall not be received by the Court in evidence nor shall they have any weight in the decision any more than if they had never existed, unless he

Accounts not furnished to the Revenue Authorities shall not afterwards be received in evidence in Courts of Justice in suits instituted to

contest the decision of those authorities. Exception.

shall show good cause to the satisfaction of the Court for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's requisition or show good cause for not having done so.

In what cases fines may be imposed for non-attendance of a proprietor or his agent, or for omission to furnish accounts.

Third. Provided also that if any proprietor or farmer shall omit or refuse to attend or to cause his officer or agent to attend, when duly summoned by the Collector or Commissioner, by the time prescribed in the notice issued by the Collector or Commissioner, or shall omit or refuse to furnish the accounts or documents required and to show sufficient cause for such omission, the Board of Revenue or other authority exercising the powers of that Board are authorized and empowered to impose upon him such daily fine, to be payable daily until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life, reporting however the amount for the information of the Governor-General in Council. The fine when confirmed by Government is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Penalties for resistance of process issued under this Regulation.

XIV. If any *zemindárs* or other person shall resist or cause to be resisted the attachment or measurement of lands, which the Board of Revenue or other authority exercising the powers of that Board shall have authorized the Collector or Commissioner to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector or Commissioner to compel a *patwárí, gomashtah* or other officer to produce his accounts and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue or other authority exercising the powers of that Board on being satisfied that he is guilty of the charge to adjudge the *zemindár* or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue; provided however that, if the fine shall exceed five hundred rupees, the Board shall submit a report of the case to the Governor-General in Council and shall not proceed to levy the fine, until they shall receive authority from Government for that purpose.

Proviso.

Duty of Collector when parties attend and produce their title-deeds.

XV. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons and shall deliver up his title-deeds, the Collector shall give a receipt for them, and after duly examining them shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies on plain paper of all documents on which his opinion may be founded. The Collector shall then desire the party to deliver a written answer within seven days.

XVI. It shall be the duty of the Collector or other officer exercising the powers of Collector carefully to number, mark, date and sign all documents produced by a *zemindár* or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment or as parcel of an estate for which a Permanent Settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him; and the Collector shall before proceeding to judgment warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

The same subject continued.

XVII. On receiving the answer of the party, the Collector shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form and in the presence of the party or his authorized agent.

Witnesses for and against the claim of Government to be examined.

XVIII. The Collector shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liablity of the land to assessment.

Documents to be examined, and the party to be allowed access to the documents in support of the claim of Government.

XIX. *First.* The Collectors and other officers exercising the powers of Collectors are hereby authorized to summon witnesses and administer oaths or cause the execution of solemn declarations in lieu thereof in all cases brought before them under this Regulation.

Collectors vested with authority to examine witnesses on oath, &c. in judicial form.

Third. Persons resisting any process issued by the Collector or other officer exercising the power of Collector in any case depending before him under this Regulation shall, in addition to the penalty prescribed in section 14, be liable to the penalties prescribed for cases of resistance to the process of a Collector in Regulation XIV, 1793, Regulation VI, 1795, and Regulation XXVII, 1803, under the provisions therein specified.

Penalties for resistance of process.

XX. Having closed his proceedings the Collector shall record his opinion in a *rubakári*, detailing the grounds on which it is founded and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority exercising the powers of that Board in such mode as may be directed by that authority, furnishing the party at the same

Collector how to proceed on the completion of the inquiry.

time with a copy on plain paper of the final *rubakári* aforesaid and reporting his having done so to the Board or other authority aforesaid.

Boards how to act on the receipt of the Collector's proceedings.

XXI. *First.* The Board of Revenue or other authority aforesaid, after calling for any further evidence which on a consideration of the Collector's proceedings they may deem wanting, shall on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector may have furnished the party with a copy of his final *rubakári*, and after hearing anything which the party if in attendance may wish to urge in his own behalf, proceed to pass judgment in the case and shall record their opinion in a *rubakari*, delivering a copy thereof to the party on his requisition to that effect.

Final *rubakaris* what to contain.

Second. The final *rubakáris*, which the Collector and the Boards are by the provisions of this section directed to record, shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title af every exhibit read.

In what cases the decision of the Boards to be final.

Third. If the Board of Revenue or other authority aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

If the land be declared liable to assessment, the Collector to form the assessment.

Fourth. In the event of the Board's declaring the lands liable to assessment, the Collector shall inform the party or his *vakíl* of the decision of the Board and shall proceed to ascertain the limits of the land and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

Under what circumstances the party may be left in possession of the land.

XXII. *First.* If the party shall within a fortnight of his receiving intimation of the Board's decision tender to the Collector responsible security for the payment from that date of the *jamá* which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days commencing from the date of the deed of security, or (if the Court shall be shut and shall not be opened until after the expiration of such ten days) within three days calculating from the day on which it may be opened, to try the justness of the demand, the Collector shall leave the party in possession as before, reporting the circumstance for the information of the Board; provided however that in such cases the party shall produce all his accounts of collections for the information of the Collector in estimating the amount of the security to be required.

Proviso.

[Ss. 22, 23 and 24 have been modified and extended by cl. 1, s. 10, Reg. III of 1828, *q. v.*]

Second. If the party be willing to give security for a portion only of the *jamá* eventually assessable on the land, it shall be competent to him to do so on the conditions above specified. In this case the Collector shall under the orders of the Board either hold the lands *khas* or farm them for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Collector how to proceed, if the party do not furnish full security.

Third. It shall be competent to the Court to direct the Collector to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound.

The Court may determine on the sufficiency of the security tendered.

Fourth. The amount shall not in the first instance exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if at the expiration of one year from the date on which the party may receive intimation of the Board's decision the suit shall still be pending, it shall be competent to the Collector to require additional security for the same amount.

Amount of security how to be regulated.

Fifth. In *mukarrarís* the parties giving security and intending to sue shall continue to pay the *mukarrarí jamá* and will be required to give security for the remaining revenue, which may be eventually demandable from them.

Amount with regard to *mukarraris.*

[See s. 8, Reg. IX of 1825.]

XXIII. If the party do not give security or having given security neglect to sue, the Collector shall proceed to the final assessment of the land.

In what case the Collectors authorized to proceed to a final assessment.

XXIV. *First.* Persons whose lands may be assessed either in failure to give security or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's decision, but after the above period shall have elapsed the decision of the Board shall be final and conclusive; provided however that in the cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.

Limitation of time for the institution of suits in Civil Courts.

Proviso.

[" A Resumption Officer has authority to decide whether disputed lands belong to a *lakhirdj* estate, and his decree, declaring that any land is a portion of a *lakhirdj* estate and is resumed in favor of Government, is final, unless appealed against to the proper constituted authorities. Act XIII of 1848 enacted that a Settlement Officer's decision is final unless a suit is brought to con-

test the award within three years. The defendant in the present suit did appeal from the Resumption Officer's decree to the superior authority, but his appeal was dismissed and he took no steps to contest the decision of the Settlement Officer. The plaintiff's title being founded upon those proceedings cannot now be contested in the Civil Court. The plaintiff having sued to recover possession upon this title within twelve years of the settlement with him is entitled to a decree"—*Ram Kanth Sen Chaudhrí and others* v. *Jaitárá Debya and others*, II Sev. 32. Act XIII of 1848 was repealed by Act VIII of 1868, but see cl. 6, s. 1, Act XIV of 1859, and art. 44, Schedule II of Act IX of 1871.

The Rájá of Bijní, finding his affairs in confusion, applied to Government to settle his *zemindárí*. Government complied and appointed a Deputy Collector. B appeared before the Deputy Collector as the owner of a lakhiráj estate of 5,342 bíghás. The Deputy Collector released the land, and the Commissioner confirmed the order; but the Board of Revenue on appeal released only 310 bíghás and resumed 5,032. B sued in the Civil Court to set aside the Board's decision; the Judge held the suit barred as not having been instituted within a year of information having been obtained of the Board's decision. The High Court on appeal decided that the special resumption laws were wholly inapplicable to the case, that the Revenue Authorities were only acting as the Rájá's agents, Government being no party to the suit, and could not therefore resume a *lakhiraj* tenure of more than 100 bíghás, and that the rule of limitation applied by the Judge did not govern the case—*Dinonath Pal* v. *Ram Lochan Sen, &c.* II Sev. 794.

Two appeals were filed in the Court of the Sádr Amín instead of in that of the Judge, as required by s. 24, Reg. II of 1819. The Judge on petition transferred the appeals to his own file. A subsequent Judge dismissed the appeals on the ground that they had been filed in a Court having no jurisdiction, and that therefore all proceedings were void. *Held* that he had no right to do so, and that the Judge's order transferring the appeals to his own file had condoned the *lâches* committed in the first instance—*Rájá of Bardwan* v. *Raghúnath Singh*, II Sev. 50 c.]

XXVI. *First.* In cases instituted in the Zillah Court an appeal shall be received by the Court of Sádr Díwání Adálat.

Provisions of section 2, Regulation XXVI, 1814, not applicable to such appeals.

Second. The Sádr Díwání Adálat in all cases of appeal being preferred in conformity with the provisions of this Regulation shall together with the decree against which such appeal may be lodged likewise peruse the final *rubakárí* filed in the case by the Board of Revenue or other authority exercising the powers of that Board; and if, on a consideration of those documents, the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if from the nature of the cause as stated in the decree or otherwise it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit an appeal.

[See cl. 4, s. 10, Reg. III of 1828.]

Validity of *farmáns*, *sánads* or grants to be carefully ascertained.

XXVIII. *First.* On the production of any written document purporting to be a *farmán* of any king of Delhi, or to be a *sánad, parwána* or other grant of any Vizier, or of any Nawáb, Rájá or other potentate or person formerly exercising authority in any part of the provinces and territories now sub-

ject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it by reference to such offices and records and by the examination of such living witnesses as may be likely to lead to the due appreciation thereof. And the said authorities shall not receive such document in evidence merely on the credit of the seal or other attestations impressed upon it without some external evidence in corroboration of its authenticity.

Such deeds not to be received unless duly registered.

Second. Provided also that no document of the above description, which may be produced to any Court or *adálat,* shall be received nor any proceedings held thereon nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX and XXXVII, 1793; XLI and XLII, 1795; VIII, 1800; XXXI and XXXVI 1803; and VII, 1808, or unless due cause be shown for the non-registry.

[In the case of *G. C. W. Forester and others* v. *The Secretary of State for India* (XII B. L. R. 120), a copy of a *sánad* said to have been granted by the King of Delhi was produced. There was no trace of the original, its loss was not accounted for, there was no evidence that anybody ever saw it. Under the circumstances, their Lordships of the Privy Council came to the conclusion that, having regard to the high degree of proof required by this section and by s. 3 of Reg. XIV of 1825, there was not evidence which could be accepted as sufficient proof of a grant. This case also decided a nice point as to whether the proceedings of Government in resuming a certain *jagír* amounted to an act of State which could not be questioned by a municipal tribunal, this question being under the particular circumstances determined in the negative.]

The general provisions of this Regulation applicable to cases in which the Collector may suspect the validity of original tenures of land, subsequently commuted for the money pensions noticed in Regulation XXIV, 1803, and Regulation VI, 1817.

XXIX. Whenever a Collector or other officer exercising the powers of Collector shall have reason to suspect the validity of the original tenure under which any land, subsequently commuted for a money pension of the description noticed in Regulation XXIV, 1803, and Regulation VI, 1817, was held, it shall be competent to him, with the previous sanction of the Board of Revenue or other authority exercising the powers of that Board, to proceed in the investigation of the tenure under which such land was held in the same manner as Collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and, if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money pension granted in consideration thereof, subject to an appeal to the Courts of Judicature in the manner prescribed by this Regulation in cases in which the Board may direct the assessment of land held free of assessment: provided however that it shall not be competent to the Revenue Authorities to resume any money pension of the above description, of which the incumbent may have been in the enjoyment under orders of the Governor-General in Council for a period of twelve years or more.

Proviso.

Declaration that this Regulation shall not be considered to affect the right of proprietors to waste lands which were guaranteed to them at the Permanent Settlement.

XXXI. *First.* Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates, for which a Permanent Settlement has been concluded, to the full benefit of all waste lands included within the ascertained boundaries of such estates respectively at the period of the Decennial Settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement and—it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the Decennial Settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue Authorities in any case in which it shall appear that lands, which actually formed at the period in question a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation—the *zemindárs* and other proprietors of land will be enabled by an application to the Courts to obtain immediate redress in any case in which the Revenue Authorities shall violate or encroach on the rights secured to them by the Permanent Settlement.

Nor to warrant the claim of additional revenue from lands permanently assessed on the plea of error or fraud.

Exception.

Second. It is further hereby declared and enacted that all claims by the Revenue Authorities on behalf of Government to additional revenue from lands, which were at the period of the Decennial Settlement included within the limits of estates for which a Permanent Settlement has been concluded, whether on the plea of error or fraud or on any pretext whatever—saving of course the case of lands expressly excluded from the operation of the settlement, such as *lakhiráj* and *thanadarí* lands—shall be and considered wholly illegal and invalid.

[Collectors or other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in Reg. VII of 1822, are vested with all the powers and authority, which may be lawfully exercised by Collectors in cases depending before them under Reg. II of 1819. See cl. 2, s. 19, Reg. VII of 1822.

There was at one time some doubt as to whether, when land previously held as *lakhiráj* was resumed, the *ex-lakhirajdár* or person who had so held the lands was entitled to a settlement and to continue to hold the land on agreeing to pay the revenue assessed by Government—see *Maharájá Jai Mangal Singh* v. *Tekaet Pakhan Singh*, VII W. R. Civ. Rul. 465; and *Pheká Singh and others* v. *The Government and Maharájá Jai Perkash Singh and others*, XXI W. R. 328 Note, and X W. R. 296. This doubt was however set at rest in the case of *Mahomed Israil* v. *J. P. Wise* (XXI W. R. 327, and XIII B. L. R. 118), in which the following question was referred to a Full Bench:—"Whether, on the allegation by the plaintiff that he is the rightful owner of the lands which have been resumed by the Government, but that the defendant by false allegation of ownership and of possession has induced the Revenue Authorities to enter into settlement with him, he is entitled to an adjudication of his right to settlement, or whether it is discretional with the Collector under such circumstances to settle the lands with any person he pleases, and such settlement is final as regards all claims." In making the reference to a

Ex-Lakhirajdar entitled to settlement.

Full Bench, L. S. Jackson, *J.* said observing on the case of *Pheká Singh and others*:—" In that case it was held that there was nothing in the Regulations which *absolutely entitled an ex-lakhirájdár to the settlement of lands resumed by the Government under Reg. II of* 1819; and, holding this view of the law, the learned Judges dismissed the appeal, carrying with it the dismissal of the suit of the plaintiffs. In the judgment first delivered the late Mr. Justice Bayley, whose opinion on a question of revenue law is entitled to great respect, declares that under Reg. II of 1819, 'the Government becomes the actual proprietor of the resumed *mahál* just as much as it would do in the case of an escheat of a Government purchased *mahál*.' Mr. Justice Macpherson, coming to the same conclusion, declared that he rested his decision upon the reasons given by Mr. Justice Norman in the case of *Maharájá Jai Mangal Singh* v. *Tehaet Pakhan Singh*, in VII W. R. Civ. Rul. 465; and on the review Mr. Justice Macpherson again stated that his reasons had been stated in the judgment delivered at the hearing of the appeal, and he saw no reason to alter the opinion then formed. Now in respect of that view of the case it appears to me, with great deference to the opinion of the learned Judge, that the circumstances of the case in the VII W. R. were very different from those of the case then before the Court. Mr. Justice Norman was dealing, as he understood it, with the case of resumed *altamgah*, *madadmâsh* or the like, which is a resumption of land granted either for service-purposes or as a recompense. In that case the land might fairly be held to return to the Government which granted it. In this case it is altogether different. But the judgment of Mr. Justice Bayley on the review in the X W. R. refers to Regulations which do undoubtedly bear upon this point. As to Reg. XIX of 1793 Mr. Justice Bayley states that, in his opinion, there is nothing in the terms of ss. 7, 8 or 17, which provides that the settlement must as a matter of course be made with the *ex-lakhirájdár*. The pleader for the respondent before us to-day admitted that he was not prepared to support the decision of the Division Bench on which the Lower Appellate Court relied in this case. And it seems to me as at present advised, that the decision is not one which can be supported. It appears to me that, under Reg. II of 1819 and on the provisions of the Regulations of 1793, which have been referred to, the question for the Revenue Authorities is whether or not the land in question ought to be assessed for the purpose of revenue to Government. Of course in determining that question the Revenue Authorities are justified in dealing and must necessarily deal with the parties whom they find in possession of the land, but I conceive that beyond the question of liability to assessment, which is wholly within the decision of the Revenue Authorities, the question of proprietary right rests with the Civil Court, and that a party with whom settlement is not made and who considers himself entitled to settlement may bring a suit in the Civil Court to have his right to settlement declared."

In delivering the unanimous judgment of the Full Bench upon the question referred, Couch, C.J. said:—" If we look at the scope and object of these Regulations, I do not see how it could be supposed that the decision in a suit for assessment would do anything more than affect the question, whether the land is to be held rent-free or not. In determining that question between the owner or occupier of the land and the Government, it was not intended to determine any rights between parties who might have conflicting claims to hold the land. In the Sádr Reports of 1850, p. 407, this appears to have been decided. The judgment there is:—" In this "case the right of plaintiff as proprietor has been admitted by the Munsif on proof of the "foreclosure of the mortgage previous to the purchase of the defendant, with whom the "settlement was made by the Collector in virtue of his being in possession. Both Courts "however on the precedent of Har Gobind Ghose (Summary Decisions, Sádr Díwaní Adálat,

"pp. 109, 110, 111, 112) have considered themselves restricted from interfering with any settlement "made by the Revenue Authorities, and therefore dismissed plaintiff's claim. In this opinion "both Courts have mistaken the decision in the precedent cited. It is therein recorded, "'to decide on the question of assessment is peculiarly the province of the Resumption "Courts, to decide on the question of proprietary right is peculiarly the province of the "Judicial Courts.' Thus, in the case of a suit to resume a *lakhiráj* tenure, the Resumption "Courts would pronounce upon the validity or invalidity of the tenure; but the Civil Courts might "still entertain a suit between parties claiming the proprietary right, and desirous of being admitted "to enter into the settlement with Government." This is also the view which was taken by Mr. Justice Paul in the case in XVI W. R. 35, and the Judicial Committee of the Privy Council in their judgment in *Gangagobind Mándal* v. *The Collector of* 24-*Pargánas* (11 Moo. Ind. Ap. 358) distinctly state this to be the law. In that judgment it is said:—"If, as the Government contend, "these lands were rent-paying lands, the title of the Government was simply to the rent, the "nature of which was that of a jamá or tribute, and if the holders of these lands asserted then or "subsequently a groundless claim to hold them free of rent as *lakhiráj*, that claim would not "destroy their proprietary right in the lands themselves, but simply subject their owners to liability "to be sued in a resumption suit, the subject of which is not to obtain a forfeiture of the lands "but to have a decree against the alleged rent-free tenure involving the measurement and assess-"ment of the lands and the liability of the person in possession, if he wishes to retain possession, "to pay the revenue so assessed." Therefore, we should answer the first part of the question in the affirmative. The question is put in such a way that the first part of it must be answered in the affirmative, and the second in the negative. It appears to me that there has been an error in the proceedings in holding that the Government was not a proper party to the suit. The Government having given a lease of the lands to another person, it was proper that it should have an opportunity of showing that this had been properly done. And if the Government were a party to the suit, the person who got the lease from the Government might be freed from liability upon it. Now, another suit will be necessary to finally decide the matters between these parties, as the Government being no party to this suit will not be bound by the decision in it." The *dictum* that the Government (represented by the Collector) ought to be made a party, was followed in *Krishno Lal Nag v. Bheirab Chandra Deb*, XXII W. R. 52. In *Krishna Chandra Sandyal Chaudhrí v. Harish Chandra Chaudhrí* (VIII B. L. R. 532) it was held that the omission to make Government a party was not a ground for dismissing the suit.

Although the Civil Courts may deal with a claim to settlement and possession of the land after it has been resumed, they have no jurisdiction to try whether land is liable to resumption or not. The fact that such a suit is brought by a person, who (not being in possession) had no notice and was no party to resumption proceedings actually held, will make no difference—*Ram Chandra Saha* v. *The Collector of Mymensingh*, XXII W. R. 48: *Bissonath Dutt and others* v. *Fulchand Birjobashí and others*, V W. R. Civ. Rul. 22: *Mahomed Ghazí Chaudhrí* v. *Lal Bibí and another*, X W. R. 103.

When an invalid *lakhiráj* tenure is resumed and assessed by Government, and the settlement concluded with the person who before resumption held as *lakhirájdár*, a new estate is not thereby conferred on such person so as to entitle him to cancel a *mukarrarí* lease granted by him before the resumption and settlement—*Pratap Narain Mukherji* v. *Madhu Sudhan Mukerji and others*, VIII B. L. R., 197: *Mussamat Farzhara Banu and others* v. *Mussamat Azizanissa Bibí and others*, B. L. R. Sup. Vol. F. B. 175.

When a person purchases an estate from Government and by such purchase obtains the right to resume and assess land situated in the estate, his right of action accrues not from the date of his purchase, but from the time when the right to resume first accrued to Government—*Mussamat Bunnú and others* v. *Múlví Amírudín*, XXII W. R. 24. This case was decided upon cl. 14, s. 1 of the former Limitation Act, XIX of 1859: see now Article 13 of Schedule II of the new Act, IX of 1871.]

REGULATION VI OF 1819.

A REGULATION *for rescinding Regulation XIX,* 1816 *and for enacting other provisions in lieu thereof.*—PASSED *by the Governor-General in Council on the* 25*th June* 1819.

Preamble.

Whereas the rules contained in Regulation XIX, 1816, intituled "A Regulation for the better management of Ferries, &c." have not in their general operation been attended with the advantages contemplated by Government in enacting them; and whereas it has been judged expedient to restrict the interference of the officers of Government in regard to ferries to objects connected with the maintenance of an efficient police, the safety and convenience of travellers, and the facility of commercial intercourse; and whereas it will in consequence be expedient to place such ferries under the exclusive charge of the Magistrates and Joint Magistrates—the following rules have been enacted to be in force throughout the provinces subject to the Presidency of Fort William.

Superintendence of the public ferries vested in the Magistrates and Joint Magistrates.

II. *Second.* The Collectors of revenue will refrain from exercising any interference with the public ferries, the immediate superintendence of which shall be vested in the Magistrates and Joint Magistrates.

Description of ferries which are to be considered public ferries.

III. *First.* No ferries shall be hereafter considered public ferries, except such as may be situated at or near the *sádr* stations of the several Magistrates or Joint Magistrates, or such as may intersect the chief military routes or other much frequented roads, or such as from special considerations it may appear advisable to place under the more immediate management of the Magistrates and Joint Magistrates.

Magistrates and Joint Magistrates interdicted from assuming the charge of unassessed ferries, unless specially authorized.

Second. The Government reserves to itself the power of determining from time to time what ferries shall under the preceding rule be deemed public ferries and as such shall be subject to the immediate control of the Magistrates and Joint Magistrates, and no Magistrate or Joint Magistrate shall, without previous authority from Government, assume the management of any ferry which may not have been let in farm or held *khas* or otherwise subjected to assessment by the Collectors.

Lists of proposed ferries to be submitted to Government, through the Superintendents of Police.

Third. It will be the duty of the several Magistrates and Joint Magistrates to prepare lists of the ferries which in their judgment should under the foregoing rules be considered to be public ferries, and transmit them as soon as prepared through the Superintendents of Police for the information and orders of Government.

Magistrates and Joint Magistrates empowered to appoint persons to the charge of ferries, and to regulate the rates of toll, number of boats, &c.

IV. *First.* The power of appointing proper persons to the charge of the public ferries is vested in the Magistrates and Joint Magistrates, who are authorized from time to time to issue such orders as they may judge expedient for limiting the rates of toll to be levied at each ferry, for regulating the number and description of boats to be maintained, for preventing exactions and generally for promoting the efficiency of the Police and the safety and convenience of the community.

In what cases *manjhís* or others in charge of public ferries may be removed from their situations.

Second. On proof of any wilful breach of those rules or of other misconduct on the part of the *manjhís* or other persons in charge of the public ferries, the Magistrates and Joint Magistrates are empowered (independently of any punishment to which the parties may subject themselves under the general Regulations) to remove such individuals and to appoint others in their room.

Specification of persons to be exempted from toll.

Third. The *manjhís* or other persons who may be vested with the charge of public ferries are to engage to cross free of toll the troops of Government with their baggage and military stores, as well as all Police and other native officers of Government who may be actually employed on the public service.

Attested lists of public ferries to be stuck up in the Magistrates' and Collectors' *kachahrís*, and in the *thana*.

V. A list of all public ferries bearing the signature of the Magistrate or Joint Magistrate shall be constantly stuck up in some conspicuous place in their *kachahrís* and in that of the Collector of the district, and likewise in the *thana* within the jurisdiction of which they may be situated.

The exclusive right to public ferries declared to belong to Government, and all private ferries in their vicinity prohibited. Proviso in cases of compensation claimed for loss sustained.

VI. *First.* Such ferries shall exclusively belong to Government, and no person shall be allowed to employ a ferry boat plying for hire at or in their immediate vicinity without the previous sanction of the Magistrate or Joint Magistrate; provided however that due attention shall be paid to all claims for compensation which may be preferred by individuals for any loss which may be sustained by them in consequence of the extension of the authority of Government to ferries hitherto under their private management, and which may not have been heretofore let in farm or held *khas* or otherwise deemed subject to assessment on account of Government.

Such cases to be investigated and reported to Government.

Second. Claims of that nature shall be inquired into by the Magistrates and Joint Magistrates, and their opinion on the merits of each case shall be reported for the consideration and orders of Government.

[This section has been repealed so far as relates to the provinces under the control of the Lieutenant-Governor of Bengal by s. 1, Act I (B.C.) of 1866, which was passed to define more exactly the limits within which persons are prohibited from plying a ferry boat for hire in the vicinity of a public ferry and also to provide some penalty for the wilful disregard of such prohibition. Section 2 enacts that no one shall without the Magistrate's sanction keep a ferry boat for the purpose of plying for hire within a distance of two miles above or below a ferry declared to be a *public ferry* under the provisions of Reg. VI of 1819. The punishment for contravening this rule is by s. 5 declared to be that provided by s. 447 of the Indian Penal Code (relating to criminal trespass) which is imprisonment of either description for a term which may extend to three months, or fine which may extend to Rs. 500, or both.

Act I (B. C.) of 1866.

Section 3 provides for the establishment of subsidiary ferries on the requisition of the Magistrate within two miles of the principal public ferry, and makes all the provisions of Reg. VI of 1819 applicable thereto.

Section 4 provides for the grant of compensation to persons injured by any ferry being declared public, such compensation to be calculated on an average of the net profit of the preceding five years and in no case to exceed fifteen times such annual net profit. Such claims are to be enquired into by the Magistrate.

When a ferry previously held under private management has been declared to be a public ferry by the Government under the provisions of s. 3, Reg. VI of 1819, an individual claiming compensation for the loss alleged to have been sustained by him in consequence *cannot* maintain an action in the Civil Court to enforce his claim. Such a claim can only be made and enquired into in the manner provided by the Regulation, according to the general rule that when the Legislature creates an obligation to be enforced in a specific manner, performance cannot be enforced in any other way—*The Collector of Pubna* v. *Romanath Thakur and others*, VII W. R. Civ. Rul. 191: *The Magistrate of Malda* v. *Bibi Gharibanissa and others*, III R. C. & C. R. Civ. Rul. 139, and B. L. R. Sup. Vol. F. B. 630. Where however a Magistrate, without the sanction of Government (see s. 3) has invaded a private right of ferry, the Civil Court is not debarred from giving relief; and an order of a Magistrate extending the boundaries of a public ferry and so making persons dependent on such ferry and liable to pay toll for crossing the river is an invasion of an ancient right to cross in whatever ferry boat they pleased, appertaining to persons who had previously without charging toll transported in their own boats or in boats hired by them their labourers and cultivators and implements of husbandary—*Ram Gobind Singh and others* v. *Magistrate of Ghazipore and othsrs*, IV N. W. P. Rep. N. S. 146.]

Specification of objects to which the Magistrates and Joint Magistrates are to attend, in assuming charge of the public ferries.

VII. *First.* In assuming the management of public ferries the general objects of the Magistrates and Joint Magistrates shall be, the maintenance of an efficient police, the safety and convenience of travellers, the facility of commercial intercourse and the expeditious transport of troops. For the above objects, they shall be careful to provide or cause to be provided safe and commodious boats, they shall fix the rates of toll on a very moderate scale, in no case exceeding without an indispensable necessity the rates which prevailed previous to the enactment of Regulation XIX, 1816, they shall adjust the modes of payment so that the tolls may bear as lightly as possible on the poorer classes of the community, and by leaving a fair profit to the individual who may be chosen

for the immediate charge of the ferries they shall endeavour to secure as far as possible the services of respectable and competent persons.

No collections to be made on account of Government, until the objects specified in the preceding clause have been attained.

Second. No collections shall be taken on account of Government from the proceeds of any ferry, until the above objects are fully secured; and, if in any case there shall remain a clear surplus profit after providing adequately for those purposes, the amount collected shall be applied solely to the furtherance of similar objects, such as the repair or construction of roads, bridges and drains, the erection of *sarais* or other works of a like nature.

Surplus collections how to be appropriated. Rule of proceeding in cases where a public ferry shall yield a surplus revenue.

Persons in such cases to enter into an engagement for the payment of instalments.

How the Magistrate or Joint Magistrate is to proceed, when the person shall refuse to enter into such an engagement.

Third. In cases of the latter description, *viz.* those in which the receipts of any ferry shall be sufficient to afford a surplus revenue as above mentioned, the Magistrate or Joint Magistrate, having previously received special authority from Government in that behalf, may and shall require the persons holding or applying for the charge of the ferry to enter into an engagement for the payment by monthly or quarterly instalments of such a sum of money as with reference to the estimated surplus may appear justly demandable without risking the primary objects above indicated; and, if any person in charge of a ferry shall refuse to enter into an engagement as aforesaid and shall not assign sufficient cause for such refusal to the satisfaction of the Magistrate or Joint Magistrate, it shall be competent to such officer to transfer the charge of the ferry to any other respectable and competent person; provided however that no person in charge of a ferry, who shall otherwise conduct himself to the Magistrate's satisfaction, shall be removed from his charge under the above rule excepting at the expiration of the Bengal or Fussily year according to the era current in the province.

The mode of paying the collections realized under this section, to be adjusted under the orders of Government.

Proviso.

Fourth. The mode in which collections made under this section shall be paid, whether into the treasury of the Magistrate or Collector or any other public officer, shall be determined by the orders of Government and adjusted with the party by the Magistrate or Joint Magistrate at the time of giving him charge of the ferry or ferries entrusted to him; provided however that as a general rule all persons in charge of ferries subject to the payment of a rent shall, on discharging any instalments, receive and be directed to require receipts for the amount, which shall be countersigned by a European officer of Government.

Security for good behaviour to be given by persons in charge of public ferries, as well as for the punctual performance of engagements.

VIII. The Magistrate or Joint Magistrate shall be competent to take security for the good behaviour of persons vested with the charge of public ferries and, in the case of persons who may under the provisions of the foregoing section enter into an engagement for the payment of a yearly rent, it shall likewise be competent to the officers aforesaid to require adequate security for the punctual payment of the amount as it may become due.

IX. Any person in charge of a public ferry, whether subject to the payment of rent or not, shall be at liberty to relinquish the charge on giving ten days' notice to the Magistrate or Joint Magistrate and on paying any arrears that may be due; provided however that it shall in such case be competent to the Magistrates or Joint Magistrates to require any person who may so relinquish the charge of a ferry, or who may be removed from such charge, to transfer the boats belonging to the ferry to the persons who may be appointed to succeed him, at a fair valuation, or to retain the boats until others can be provided, making a suitable compensation to the owner.

Persons to be allowed to relinquish the charge of ferries on giving ten days' notice to the Magistrate, and on payment of arrears.

Proviso regarding the transfer of boats.

X. If any person having charge of a ferry subjected to the payment of a yearly rent shall fail to discharge the amount as it may become due, he shall be liable to immediate removal, and the Magistrate or Joint Magistrate after ascertaining the arrear and certifying the default will proceed to the recovery of the amount from the party and his surety in the manner prescribed by section 7, Regulation XVIII, 1817 for the recovery of public money embezzled by native officers of the Civil and Criminal Courts, giving at the same time a liberal consideration to any pleas which the party may urge in explanation of the default.

How a Magistrate or Joint Magistrate is to proceed for the recovery of the rent of a public ferry from a defaulter.

[The lessee of certain ferries for a term of fifteen months agreed to pay the rent in five instalments and that the lease should be void, if any of these instalments was not punctually paid upon the specified date. Default being made, the Government authorities took over the toll collections and put them in charge of two *chaprásís*. On the expiry of the term of the lease, they sued the lessee for the balance of the rent after giving credit for the amount collected by the *chaprásís*. *Held* that they could not succeed, there being no stipulation that the lessee was to be liable for any deficiency in the rents after Government had taken *khas* possession of the ferry—*The Government* v. *Raimohan Hazra*, III R. C. & C. R. 49.]

XI. All persons vested with the charge of public ferries, whether paying any rent or not shall on accepting the situation be distinctly apprized that the Magistrates and Joint Magistrates reserve to themselves the power of reducing the rates of toll or extending the exemptions from the payment of it, at such times and in such manner as shall appear proper with a view to the public good: provided however that, in the event of any such measures being adopted, the party in charge of the ferry may relinquish the charge, and the Magistrate shall in such case purchase from him at a fair valuation or cause his successor so to purchase all boats belonging to the ferry with all articles thereunto appertaining.

Persons on receiving charge of public ferries to be informed of the discretion reserved to the Magistrate, for reducing tolls or extending exemptions.

Proviso, in case a person may wish to relinquish charge.

XII. *First.* Provided also that whenever a Magistrate or Joint Magistrate shall adopt such measures in regard to any ferry for which a rent shall have been required from the person vested with the charge of it, the said Magistrate or Joint Magistrate shall in communicating his orders to the party aforesaid at the

Further proviso in such cases.

same time apprize him whether he designs to allow any and what reduction in the stipulated rent.

A person, if unwilling to pay the fixed rent of a ferry, required first to carry the Magistrate's orders into effect, and then to state the rent he may be willing to pay.

Such person to be removed, should his offers be deemed inadequate, and all arrears to be required from him.

Second. If the person in charge of the ferry shall not be willing or able to pay the rent so fixed by the Magistrate or Joint Magistrate, he shall nevertheless immediately carry the Magistrate's or Joint Magistrate's order into effect and shall state in his reply to those orders the amount of rent which he may be willing to continue to discharge. Should the offer of the party in charge of the ferry appear inadequate, it shall be competent to the Magistrate or Joint Magistrate to remove him and to place another person in charge of the ferry, purchasing the boats and their appurtenances as aforesaid; but the person so removed shall be required to pay for the days during which he may retain charge subsequently to the date of his reply to the Magistrate's order a proportionate rent calculated at such rate only as he may have tendered.

Magistrates prohibited from interfering with any other than public ferries, except for purposes of police and for the safety of passengers.

XIII. *First.* The foregoing rules are intended to apply exclusively to those ferries which may be declared to be public ferries. With regard to all other ferries, the Magistrates and Joint Magistrates shall not interfere with them further than may be necessary for the general maintenance of the police and for the safety of passengers and property.

Proviso in cases where persons or property may suffer by boats being overloaded or inadequately found.

Punishment to which *manjhis* or others are declared liable on conviction in such cases.

Second. Provided however that if any person shall be drowned or exposed to imminent danger or if any property shall be lost or damaged by the oversetting or sinking of a ferry boat, and it shall be established on inquiry before the Magistrate or Joint Magistrate that the boat was overloaded with passengers or property, or was insufficiently manned, or was out of repair at the time of the accident, the *manjhí* of the *ghât* or boat, if duly convicted of permitting his boat to be overloaded or to be insufficiently manned or out of repair, shall be liable to such punishment as the Magistrate or Joint Magistrate may think proper to impose, not exceeding imprisonment for six months, or a fine of two hundred rupees.

[Cl. 2, s. 13, Reg. VI of 1819 applies only where there has been an accident. If a Magistrate considers a ferry improperly kept and in a dangerous condition, he should proceed under s. 4—*The Queen* v. *Diyanatúla*, VII W. R. Crim. Rul. 32.

See ss. 280 and 282 of the Penal Code and consider the effect of s. 2 of the same Code.]

REGULATION VIII OF 1819.

A REGULATION *to declare the validity of certain Tenures and to define the relative rights of Zemindárs and Patní Tálukdárs, also to establish a process for the Sale of such Táluks in satisfaction of the Zemindár's demand of rent, and to explain and modify other parts of the system established for the Collection of Rents generally throughout Bengal.*—PASSED *by the Governor-General in Council on the 3rd September* 1819.

Preamble

By the rules of the perpetual settlement proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different *mahále* were declared to be entitled to make any arrangements for the leasing of their lands in *táluk* or otherwise, that they might deem most conducive to their interests. By the rules of Regulation XLIV, 1793 however all such arrangements were subjected to two limitations—*first,* that the *jamá* or rent should not be fixed for a period exceeding ten years; and *secondly,* that in case of a sale for Government arrears such leases or arrangements should stand cancelled from the day of sale. The provisions of section 2, Regulation XLIV, 1793, by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation V, 1812, and in Regulation XVIII of the same year it is more distinctly declared that *zemindárs* are at liberty to grant *táluks* or other leases of their lands, fixing the rent in perpetuity at their discretion, subject however to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore. In practice the grant of *táluks* and other leases at a rent fixed in perpetuity had been common with the *zemindárs* of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V and XVIII of 1812 or in any other Regulation, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation XLIV, 1793 should, if called in question, be deemed invalid and void as heretofore.—This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements and declaring null and void any granted in contravention thereto was in force. Furthermore

in the exercise of the privilege thus conceded to *zemindárs* under direct engagements with Government there has been created a tenure which had its origin on the estates of the Rájá of Bardwan, but has since been extended to other *zemindáris*, the character of which tenure is, that it is a *táluk* created by the *zemindár* to be held at a rent fixed in perpetuity by the lessee and his heirs for ever. The tenant is called upon to furnish collateral security for the rent and for his conduct generally, or he is excused from this obligation at the *zemindár's* discretion; but, even if the original tenant be excused, still in case of sale for arrears or other operation leading to the introduction of another tenant such new incumbent has always in practice been liable to be so called upon at the option of the *zemindár*. By the terms also of the engagements interchanged it is amongst other stipulations provided that in case of an arrear occurring the tenure may be brought to sale by the *zemindár* and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand These tenures have usually been denominated *patní táluks*, and it has been a common practice of the holders of them to under-let on precisely similar terms to other persons, who on taking such leases went by the name of *dar-patní tálukdárs*. These again sometimes similarly underlet to *se-patnídárs:* and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder. In these engagements however it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit or for that of the tenant, that is whether, in case the proceeds of sale should exceed the *zemindár's* demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules, by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner. The tenures in question have extended through several *zillahs* of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the Legislature. It has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a *patní táluk* as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by *patnídárs* and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the *zemindár* or other for his ruin, as well as to secure the just rights of the

zemindár on the sale of any tenure under the stipulations of the original engagements entered into with him. It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale and the form and manner of conducting such sale; and, whereas the estates of *zemindárs* under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly *kists* to Government, it has seemed just to allow any *zemindár*, who may have granted tenures with a stipulation of the right to sell for arrears, the opportunity of availing himself of this means of realizing his dues in the middle of the year as well as at the close, instead of only at the end of the Bengal year as heretofore allowed by the Regulations in force. It has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though in conformity with the Regulations heretofore in force the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year. It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters—The following rules have accordingly been enacted by His Excellency the Most Noble the Governor-General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal including Midnapore.

[As to the derivation of *patní*, see *ante*, p. 37, Note.

In the case of *Tarini Charan Gangúli and others* v. *John Watson and others* (III B. L. R. Ap. Civ. 437), it was sought to show that certain *patní táluks* were *for life only* and were *inalienable*. The contention was unsuccessful, the Court being of opinion that the term '*patní táluk*' *primâ facie* imports an hereditary tenure; that there was no clear instance of the term having ever been applied to a life-interest merely; that, although there was nothing in Reg. VIII of 1819 to prevent the grant of a tenure not hereditary, yet, looking to the preamble as showing what in the common understanding of persons acquainted with such matters and in the ordinary use of language is meant by the expression '*patní táluk*,' the Court could have no doubt whatever that when a man grants a *patní táluk*, he clearly means an heritable interest. If he intended to grant anything else, the term would be misapplied, and nothing but an express declaration that a heritable tenure was not intended would be sufficient to show that the term was used in so exceptional a sense. As to the question of *alienability*, the Court were of opinion that a tenure in the nature of a *patní táluk* is by its very nature *alienable*. It was contended that the use of certain words in this particular case restrained alienation; but the Court decided that the words in question had no such effect. So in the case of *Kristamani Debya and others* v. *Gúrú Gobind Shihanto* (II Sev. 173), it was held that liability to sale under Reg. VIII of 1819 is an incident of a *patní táluk*. This suit had been brought to reverse a sale made under the provisions of the Regulation on the ground that the *kabúliyat* contained no condition for the sale of the *táluk* for arrears. The Court held it liable to sale notwithstanding, observing that there was no author-

ity for supposing that there were *patní táluks* of two descriptions, one liable to sale and the other not liable; that, when parties mutually agreed on the one hand to create and on the other to accept a tenure called a *patní táluk*, without actual words limiting or defining it as a tenure of a separate kind, they must be presumed to have intended to create a *patní táluk* within the meaning of Reg. VIII, and consequently liable to sale under cl. 3, s. 3 of that Regulation. As to the use of the word '*patní*' carrying with it all the usual incidents of such a tenure in the absence of any clear stipulation or intention to the contrary, see also *Brindaban Chandra Sirkar Chaudhrí and another* v. *Brindaban Chandra Dey Chaudhrí and others*, XIII B. L. R. 409, & XXI W. R. 324, and I L. R. I. A. 178.]

Leases fixing rent in perpetuity or for a longer term than ten years declared valid, though executed while section 2, Regulation XLIV, 1793 was in force.

II. It is hereby declared that any leases or engagements for the fixing of rent now in existence, that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government or other person competent to grant the same, shall be deemed good and valid tenures according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V, 1812 and while the rule of section 2, Regulation XLIV, 1793, which limited the period for which it was lawful to grant such engagements to ten years and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question; provided however that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, unless especially exempted from such liability by the rule in question or by any other specific rule of the Regulations in force.

Patní tenures declared valid, transferable and answerable for debt.

III. *First.* The tenures known by the name of *patní táluks*, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity according to the terms of the engagements under which they are held. They are heritable by their conditions, and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise at the discretion of the holder, as well as answerable for his personal debts and subject to the process of the Courts of Judicature in the same manner as other real property.

Patnidars' right of under-letting, declared.

Second. *Patní tálukdárs* are hereby declared to possess the right of letting out the lands composing their *táluks* in any manner they may deem most conducive to their interest, and any engagements so entered into by such *tálukdárs* with others shall be legal and binding between the parties to the same, their heirs and assignees; provided however that no such engagements shall operate to the prejudice of the right of the *zemindár* to hold the superior tenure answerable for any arrear of his rent, in the state in which he granted it and free of all incumbrance resulting from the act of his tenant.

Patní tenures declared not voidable for arrears.

Third. In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same, but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject however to the provisions contained in section 17 of this Regulation.

Inferior tenures held under similar title-deeds will be deemed to confer a similar interest to that provided for *patní táluks* in section 3.

IV. If the holder of a *patní táluk* shall have under-let in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities, declared in the preceding section to attach to *patní táluks*, in so far as concern the grantor of such under-tenure. The same construction shall also hold in the case of *patní táluks* of the third or fourth degree.

Zemindár not entitled to refuse to give effect to a transfer.

But may demand his fee.

Fee fixed at two per cent. on the *jamá*.

But the maximum one hundred rupees.

May also demand security, as far as half the *jamá*.

Above rules to apply to sales in execution and all alienations.

But no fee on sale for arrears.

V. The right of alienation having been declared to vest in the holder of a *patní táluk*, it shall not be competent to the *zemindár* or other superior to refuse to register and otherwise to give effect to such alienations by discharging the party transferring his interest from personal responsibility and by accepting the engagements of the transferree. In conformity however with established usage the *zemindár* or other superior shall be entitled to exact a fee upon every such alienation, and the rate of the said fee is hereby fixed at two per cent. on the *jamá* or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account. The *zemindár* shall also be entitled to demand substantial security from the transferree or purchaser to the amount of half the *jamá* or yearly rent payable to him from the tenure transferred, the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure. The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations; but it shall not apply to the case of sale for an arrear in the rent due to the *zemindár* or other superior under the rules hereinafter contained. The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

[L and R *patnidárs* granted a *darpatní* lease to S who sold this *darpatní* tenure to K. The transfer was not however registered in the *Sarrishta* of the *patnidárs* L and R. The *patní* rent having fallen into arrear, the *Zemindár* proceeded under Reg. VIII of 1819 to bring the *patní* tenure of L and R to sale, whereupon K (to save his purchased *darpatní* interest) paid the arrears of the *patní* rent into the Collectorate and prevented a sale. The *darpatní* rent payable to L and R was at this very time in arrear, and K claimed to set off against this rent the amount paid into

the Collectorate in liquidation of the head *patní* rent. L and R refused to allow this and sued S and his sureties for the *darpatní* arrear. K intervened and maintained his right to the set-off, but it was held that, as he was not registered as the proprietor by purchase of the *darpatní* tenure, he could not compel L and R to recognize him, and his payment into the Collectorate was that of a mere volunteer made at his own risk—*Lakhinarain Mitro* v. *Sithanath Ghose and others*, I In. Jur. N. S. 317, and VI W. R Act X Rul. 8. Upon this K brought a regular suit against L and R and S to recover the amount which he had deposited in the Collectorate in liquidation of the *patní* rent. The High Court held that plaintiff was entitled to recover. It was said in the judgment—"There can be no doubt that under Reg. VIII of 1819 all *patnídárs* and *darpatnídárs* have the right to alienate or otherwise transfer their property without the consent of the *zemíndár*. . . . . The status of the plaintiff as *darpatnídár* does not therefore depend upon registration or the consent of the *zemíndár*. But it is contended in this case that the special appellant has not conformed to the requirements of s. 5 of the Regulation, that is to say, that he has not furnished security or paid a fee, or obtained registration of his name according to the forms laid down in that section, and therefore that, not being a *darpatnídár*, he is not entitled to claim any refund. We think, that this contention is wrong. Under the Regulation the *zemíndár* or other superior holder in certain cases is empowered to attach the property, if the subordinate holder neglects to register his name, and to hold it in trust for the subordinate holder; and in all cases, until the transfer is registered, the old tenant and the tenure itself are liable for the rent due. There may be cases in which a party may become the purchaser of a *darpatní*, and the superior estate may be put up for sale and sold before he could possibly have time to effect the registration of his *darpatní* rights. Can it be said in cases of this description that, if the *darpatnídár* paid a sum of money on account of the rent due by the superior holder and saved the *patní* from sale, he would not be entitled to a refund of the sum so paid? The subordinate holder has an interest of his own to protect, which would be altogether sacrificed, if he were not able to save the superior tenure from the hammer, for with the superior tenure all subordinate tenures fall in the event of a sale. And after all, the duties of the subordinate holder as prescribed in the Regulation are formalities. Their primary object is to give the superior holder information of who is his tenant and, until they are conformed to, the superior holder is justified in looking to the registered tenant for his rent." Their Lordships of the Privy Council approved of these remarks and upheld the decision of the High Court, observing that, though the transfer was not registered, the plaintiff had the right and was compelled to deposit the amount of rent due to the *zemíndár* in order to protect his own interest: that he made the deposit, and the defendants had the benefit of it. Referring to a large number of cases quoted in the argument, they further observed that none of them appeared to carry the case further than this that the grantor of a *darpatní táluk* is not bound to recognize the assignee of the tenure until the transfer has been registered in his *sarrishta* and that, until such registry has been effected, he may sue the original *darpatnídár* for the rent and sell the tenure in execution of a decree obtained in such suit without notice to the assignee. Until the assignment has been registered or the assignee has been accepted by the *patnidár* as his tenant, the assignor is not discharged from liability—*Lakhinarain Mitro and another* v. *Khettro Pal Singh Rai and another*, XIII B. L R. 147,[1] and XX W. R. 280.]

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[1] A number of cases will be found quoted in this report. In order to bind the *zemíndár* or superior holder, the assignee must have proceeded under s. 5 of the Regulation or must have been otherwise accepted as a tenant instead of the assignor—See *Watson and others* v. *The Collector of Rajshahye and others*, III B. L. R. P. C. 48, and XIII Moo. Ind. Ap. 160.

VI. It shall be competent to the *zemindár* or other superior to refuse the registry of any transfer until the fee above stipulated be paid and until substantial security to the amount specified be tendered and acceptéd; provided however that if the security tendered by any purchaser or transferree should not be approved by the *zemindár* and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority if satisfied of the sufficiency of the security tendered shall issue an injunction on the *zemindár* to accept it and give effect to the transfer without delay. It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a *patni táluk* nor to any alienation other than of the entire interest, for no apportionment of the *zemindár's* reserved rent can be allowed to stand good, unless made under his special sanction.

Zemindár may refuse sanction to transfer till fee and security be tendered.

Sufficiency of security, if contested, to be determined by appeal to Civil Court.

VII. In case of the sale of a *patní* tenure in execution of a judgment of Court, if the purchaser do not within the period of one month from the sale conform to the rules of section 5 of this Regulation in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the *zemindár* or other superior shall be entitled of his own authority to send a *sazáwal* to attach and hold possession of the tenure, until the forms prescribed be observed. In case also of the sale of a *patní* tenure for arrears of the rent due upon it under the rules of this Regulation, if security be required by the *zemindár* and the purchaser fail to furnish the same within one month of the date of sale, the *zemindár* shall similarly be entitled to send a *sazáwal* to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser until the prescribed security be given. Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser; but, if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made and the accounts produced by the *zemindár* or other superior making the attachment shall be received as *primá facie* evidence to warrant process for an arrear so accruing.

Upon public sale, if security be not tendered within one month, *zemindár* may attach.

Attachment to have the effect of a trust.

VIII. *First. Zemindárs*, that is, proprietors under direct engagements with the Government shall be entitled to apply in the manner following for periodical sales of any tenures, upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure. The exercise of this power shall not be confined to cases in which the stipulation for sale may have

Zemindárs to be allowed periodical sales of tenures in which right to sell for arrears is reserved by stipulation.

been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year in conformity with the practice heretofore allowed by the Regulations in force.

[See Reg. I of 1820.]

First sale to be applied for on the first of Baisákh.

Second. On the first day of Baisákh, that is, at the commencement of the following year from that of which the rent is due, the *zemindár* shall present a petition to the Collector containing a specification of any balances that may be due to him on account of the expired year from all or any *tálukdárs* or other holders of an interest of the nature described in the preceding clause of this section. The same shall then be stuck up in some conspicuous part of the *kachahrí* with a notice that, if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation. Should however the first of Jeth fall on a Sunday or holiday, the next subsequent day not a holiday shall be selected instead. A similar notice shall be stuck up at the *sádr kachahrí* of the *zemindár* himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the *kachahrí* or at the principal town or village upon the land of the defaulter. The *zemindár* shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the *mofussil* shall be served by a single *peon*, who shall bring back the receipt of the defaulter or of his manager for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood in attestation of the notice having been brought and published on the spot. If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the 15th of the month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed. In case the people of the village should object or refuse to sign their names in attestation, the *peon* shall go to the *kachahrí* of the nearest *Munsif* or, if there should be no *Munsif*, to the nearest *thana*, and there make voluntary oath of the same having been duly published, certificate to which effect shall be signed and sealed by the said officers and delivered to the *peon*.

Notice to be published that it will take place on the first of Jeth.

Notice to be sent into the *mofussil*.

Rules for serving it.

[In the case of *Sona Bibí* v. *Lal Chand Cauhdhrí and another* (IX W. R. Civ. Rul. 242), it was observed that the *zemindár* is exclusively answerable for the observance of the forms prescribed by this clause; that the latter part of the section which prescribes that the serving-peon shall bring back the receipt of the defaulter or of his manager or, in the event of his inability to procure it, that he shall obtain that which by the Regulation is substituted for it, is merely directory and, if not done, this does not vitiate the sale, provided the notice was duly served—see also *Hanúman Das alias Nonnah Babu* v. *Bipro Charan Rai*, XX W. R. 132. In a suit brought against the *zemindár* to reverse the sale of a *patní* tenure on the ground that the notice required by this clause had not been served upon the *patnídár* it was held that, with reference to

Due service of Notice essential.

s. 106 of the Indian Evidence Act, the burden of proving service of the notice was upon the *zemindár—Durga Charan Sarma Chaudhrí* v. *Syud Najan-ud-din*, XXI W. R. 397. If no notice have been served, the sale is informal and will be set aside by the Civil Court in a suit brought for that purpose; and this, as against a *bonâ fide* purchaser who is however entitled to receive back his purchase-money—*Mobarak Ali and others* v. *Amir Ali and another*, XXI W. R. 252. The sale will be also set aside, if the sale notice were not stuck up on some conspicuous part of the Collector's *kachahrí* and of the *zemindárí kachahrí—Baikantha Nath Singh* v. *Maharájá Dheraj Mahatab Chand*, IX B. L. R. 87. The words "the land of the defaulter" probably mean the land of the *patní* in arrear—*Lútfanissa Begam* v. *Kowar Ram Chandra*, Sádr Díwání Rep. for 1849, p. 371. It will be observed that the law requires the publication of the notice in *three* ways, *viz.*—(1) by sticking it up in some conspicuous part of the Collector's *kachahrí*; (2) by sticking up a similar notice at the *sadr kachahrí* of the *zemindár* himself; (3) by publication of a copy or extract of such part of the notice as may apply to the individual case at the *kachahrí*, or at the principal town or village upon the land, of the defaulter. The first two notices may be general notices containing the names of more than one defaulter. The third is a special notice for the individual. As to this *third* notice it has been doubted whether the defaulter's *kachahrí*, which is one of the places at which it may be published, must be upon the land of the defaulter. In *Mangazí Chaprassí and others* v. *Srímatí Shiba Sundarí* (XXI W. R. 369), it was published at the *kachahrí* of an adjacent *táluk*, at which *kachahrí* the business of the *táluk* in arrear was conducted, and this was held to be a sufficient compliance with the law. In *Hanúman Das alias Nonnah Babu* v. *Bipro Charan Rai* (XX W. R. 132) the *kachahrí* was in a ruinous state, and it was held sufficient to have published or served the notice at the house (apparently in a village, which was on the land of the defaulter) where the defaulter's gomashta resided and usually transacted business, and where the *zemindár* himself frequently transacted business.

In a suit brought to set aside the sale of a *patní táluk* on the ground of fraud and irregularity it was contended that the witnesses who signed the receipt for the third of the notices above referred to were not substantial persons within the meaning of the Regulation. It appeared that the receipt of the defaulter could not be obtained. His gomashta was seen, but he refused to give one; and thereupon the peon obtained the signatures of seven persons who, it was alleged, resided in the neighbourhood. At the hearing before the Principal Sádr Amín evidence was given as to the residence and the status of three of those seven, and the Principal Sádr Amín, being satisfied that they were substantial persons within the meaning of the Regulation, thought it unnecessary to go into evidence with respect to the other four; and he found in very distinct terms that these three persons resided in the neighbourhood and were substantial persons. This was his finding upon the facts:—"The plaintiffs take exception to the above seven "persons not residing in the neighbourhood of the defaulter's *mahál*. To this it would be "observed that Waris Mollah, one of the seven persons above alluded to, was the mandal of "Juggutbullubpore, and Goluck Chaukídár was the chaukídár of the village. These two certainly "are what the law calls 'substantial' men. As regards Kabel, though not a man of much con-"sequence, he was known to carry on the trade of a tailor in the village; consequently, a receipt "signed by, among others, three such men as Waris, Goluck Chaukídár and Kabel must be "considered a sufficient proof for the service of notice. A more respectably signed document "cannot be, from the circumstances of the country (the respectable portion of every community "being at all times averse to appear in a Court of Justice), expected." An appeal was preferred to the District Judge, who affirmed this decision on the ground that, supposing the witnesses

Witnesses of the Notice.

did not satisfy the statute, still notice having been really served upon the plaintiff (the *patnídár*) through his gomashta, as was proved in the cause, the non-compliance with the direction of the statute would not under the circumstances vitiate what had been done. His finding was:—"I am "of opinion that the appellants have failed to show any sufficient ground for rejecting the receipt. "When the gomashta who was in the *kachahrí* refused to give a receipt, the peon brought the "gúrú of the village, and made him write a receipt under a tree close by, and then he got some "of the by-standers to sign the receipt. The evidence proves these facts, and proves that the "three persons who were called as witnesses at the trial of the case in the Lower Court saw the "notice affixed to the door, and I find no ground for holding that they are not substantial within "the meaning of the law. I think that all that is required is good evidence to the fact of the "publication of the notice on a certain date, and that that has been supplied in this case. . . . "I would go further and say that the directions of the law are intended for the guidance "of the Collector only. . . . . "Before putting up the *patní* tenure to sale, he must require proof that the notice was duly "served, and the law says that such proof must be of such and such a nature. The Collector is "not required to take evidence; he has to examine merely the written documents produced by "the *zemíndár* and, if the proof appears to be *primâ facie* good, the *patní* is sold on the respon-"sibility of the *zemíndár*. Then if the *patnídár* has recourse to the Civil Court, the issue is "not whether the proof adduced to the Collector at the time of sale was strictly within the words "of the law, but whether the evidence adduced before the Court to prove the service of the notice "on or before a certain date is credible and satisfactory. The reasonable object of the law is that "the defaulter should have timely notice of the intention to sell, and, if it be proved that such notice "was given to the satisfaction of the Court, the number of witnesses present, their actual *status* "in social life and the distance of their dwelling-houses are points which are immaterial." An appeal was preferred to the High Court, who at first affirmed the decision of the Lower Courts, remarking as follows:—"Next, as to these witnesses' respectability. The word used in the "Regulation is 'substantial,' meaning, of course, men who have some *status* in the community, men "of local influence or importance or respectability. We think that the law has been complied "with on this point also. One of the witnesses is the *mandal*, the head-man of the village; "another is the *chaukídár*, an official whose attestation is always considered as the best possible "in all matters connected with service of notice. The third appears to be a tailor, residing "temporarily at the place, but who lives in the neighbourhood. This man is declared to be not a "proper witness. We do not see why the man is not to be considered competent to attest the serving "of notice. He appears to be a respectable man, though not a rich one; and besides, the phrase "'substantial,' on which special appellant lays so much stress, must be taken comparatively. In a "small village the measure of a 'substantial' witness will, of course, be much lower than in a place "of importance." A review was subsequently granted, and the High Court on the review reversed their own judgment and that of the Lower Courts. They said:—"It is contended by the learned "Counsel for the applicant for review that the law requires that the attesting witnesses must be "'substantial,' that is to say, responsible, moderately wealthy men, against whom in a case of false "attestation the party injured may have his remedy in a suit for damages. Now in this case the "attesting parties are sufficient in number and they reside in the neighbourhood, but with the "exception of the *mandal* the rest are not what can be called substantial persons. One is the "*chaukídár* of the village and the other a *thika* tailor. The Legislature invested the *zemíndár* "with the power of bringing subordinate *patnís* to sale, and made him exclusively answerable for "the due observance of the prescribed processes under which such tenures could be brought to

"sale. To protect the *patnídár* from fraud, it was enacted that the notice of sale must be attested "by three substantial persons. Now it is clear that, unless the attesting parties answer to the "common meaning to be put upon the word 'substantial,' the *patnídár* would be wholly without "remedy in case of false attestation." On appeal to the Privy Council their Lordships were of opinion that this was too limited a view. They said:—"It is, no doubt, desirable that men of property should sign these receipts if they can be obtained, but wealth is only one element in the position and *status* of the witness, and if he lives in the neighbourhood, and if he be a respectable man and of good character, their Lordships see no reason why, upon evidence appearing of such facts (of which the Judge in each case must satisfy himself), the Judge, in estimating the position of the man, may not properly come to the conclusion that he is a substantial person. In the present case the evidence appears to show that the man objected to carried on the trade of a tailor, that he had *lakhirádj* lands, that he lived in the neighbourhood, was well known, and was (to use a description built up of many circumstances) a 'respectable' person." Their Lordships therefore considered the first judgment more correct than the last given on review, which they accordingly reversed—*Ram Sabak Bose* v. *Manmohiní Dasí and others*, II L. R. I. A. 71, and XXIII W. R. 113, to be found in its earlier stage at II W. R. Civ. Rul. 188. In this case the Privy Council referred with approbation to the *dictum* of Peacock, C.J. in the case of *Sona Bibí* v. *Lal Chand Chaudhrí and another*, quoted above—"confined as it is to cases where there is proof that the notice was duly served." See also *Pitambar Panda and others* v. *Damudar Das and others*, XXIV W. R. 129.

A *patní táluk* was sold under this clause for arrears. Before the sale the amount of rent due was paid to an Accountant in the Collector's office, but no notice was given to the *zemindár* or Collector. A suit was brought to set aside the sale on the ground that this was a good payment and that, at the time of sale, there was no arrear of rent due. It was decided that a payment under such circumstances was not sufficient, and the suit was dismissed. Two out of the three Judge who decided the case were also of opinion that a payment even to the Collector without notice to the *zemindár* would not be sufficient—*Krishna Mohan Shaha and others* v. *Munshí Aftabudín Mahomed and others*, VIII B. L. R. 134, and see *The Collector of Tipperah* v. *Goluk Chandra Shaha*, Sádr Díwání Rep. 1859, 521. See also *Pitambar Panda and others* v. *Damudar Das and others*, XXIV W. R. 129.[1] A *patnídár* may deposit his rent in Court under the provisions of s. 46 of Act VIII (B. C.) of 1869, the term "under-tenant" in that section being held wide enough to include a *patnídár*—*Thakur Das Gosain* v. *Piyarí Mohan Mukharji*, XXII W. R. 431.

Payment otherwise than to the zemindar.

Of course, the defaulting *patnídár* whose *táluk* has been sold is not liable for rent accruing thereon after the sale—*Gopíkristo Gosami and others* v. *Ram Kamal Misri*, Mar. Rep. 212.]

Third. On the first day of Kártik in the middle of the year the *zemindár* shall be at liberty to present a similar petition with a statement of any balances that may be due on account of the rent of the current year up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters to take place on the first of Aghan, unless the whole of

Mid year sale to be applied for on the first of Kártik.

[1] In this case a question was raised as to the *era* to be followed in Midnapore. The Regulation contemplates the Bengalí era: but the practice was to sell at the beginning and middle of the Fussily year, and this was held to be a reasonable practice.

Notice as above for sale the first of Aghan. If arrear be not less than one-fourth of demand.

the advertised balance shall be paid before the date in question or so much of it as shall reduce the arrear including any intermediate demand for the month of Kártik to less than one-fourth or a four-anna proportion of the total demand of the *zemindár* according to the *kistbandí*, calculated from the commencement of the year to the last day of Kártik.

The sale.

IX. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public *kachahrí*. The land shall be sold to the highest bidder and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter. Fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid or to knock down a lot to any bidder unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose or will be produced within two hours. If the fifteen per cent. be not paid in cash or in notes of the Bank of Bengal within two hours of the sale or an equivalent amount in Government securities be not lodged, the lot shall be re-sold on the same day and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of re-sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the *bazâr* of the *sádr* station of the *zillah*, after which the lot shall be re-sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one—such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

Rules for bidding, &c. Fifteen per cent. to be paid on sale.

Or lot to be re-sold after two hours.

Failing remainder, re-sale on ninth day after.

[See Note at end of this Regulation.]

Forms to be observed on selling. *Zemindár* to certify balance and service of notice in *mufassal*.

X. At the time of sale the notice previously stuck up in the *kachahrí* shall be taken down, and the lots be called up successively in the order in which they may be found in that notice. A person shall attend on the part of the *zemindár* with a particular statement of the payments made up to the day of sale on account of the balance of each advertised lot, together with the receipt for or certificate of the notice directed to be published in the *mufassal*; nor shall any lot be put up to sale until the statement produced shall have been inspected and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read—the observance of which forms shall be recorded in a separate *rubakári* to be held upon each lot sold. If the sale be of the description provided for in the third clause of section 8 of this Regulation, the *kistbandí* of the defaulter shall likewise be produced in order that

it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale, nor shall the sale take place unless this be ascertained. The *zemindár* shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the Public Officer making the sale be answerable in any respect except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

On his own responsibility

XI. *First.* It is hereby declared that any *táluk* or saleable tenure, that may be disposed of at public sale under the rules of this Regulation for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees; unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *táluk* may have been held. No transfer by sale, gift or otherwise, no mortgage or other limited assignment shall be permitted to bar the indefeasible right of the *zemindár* to hold the tenure of his creation answerable in the state in which he created it for the rent which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect under express authority obtained from such *zemindár*.

Tenure to be sold free of incumbrance by act of defaulter.

Second. In like manner on sale of a *táluk* for arrears all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred. The possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the *raiyats*, this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

No under-lease to stand after sale.

Third. Provided nevertheless that nothing herein contained shall be construed to entitle the purchaser of a *táluk* or other saleable tenure intermediate between the *zemindár* and actual cultivators to eject a *khúdkásht raiyat* or resident and hereditary cultivator, nor to cancel *bonâ fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in a regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Exception in favour of *bonâ fide* engagements with *raiyats*.

[The effect of the sale is not *ipso facto* to cancel incumbrances created by the defaulter, but to render them voidable, if the purchaser desire to avoid them. C, the purchaser of a *patní táluk*

sold for arrears under the provisions of this Regulation, sued to enhance the rent of B the holder of an under-tenure created by A the defaulting *patnídár* whose rights had been sold. C, on purchasing A's *patní*, had not annulled B's under-tenure. B, in answer to the suit for enhancement of rent, pleaded a decision in a case between himself and A to the effect that his tenure was *istimrarí*. It was held that this decision was conclusive and that B's rent could not be enhanced. The Court also observed that it must now be taken as an established principle of law that no sales for arrears of rent have *ipso facto* the effect of cancelling tenures created by defaulting owners, but merely give to the purchaser the power to do so, if he thinks proper; that the purchaser in the present case not having exercised this power took his purchase with the tenure as it was left by the defaulting *patnídár* and therefore also subject to the decision in the case between A and B—*Madhusudhan Kundu* v. *Ram Dhan Ganguli*, III B. L. R. 431. The purchaser of a *patní táluk* at a sale held under the Regulation sued a tenant within the *táluk* for a kabúliyat at an enhanced rate of rent. The former *patnídár* had brought a similar suit, in which it was decided that the rent was not liable to enhancement. *Held* that the purchaser was bound by this decision, and that he did not occupy a position analogous to that of the purchaser of an estate sold for arrears of Government revenue, who is not the privy in estate of the former proprietor[1]—*Tara Persad Mittra* v. *Ram Nrising Mittra*, VI B. L. R. Appen. 5.[2] The only incumbrances which can be avoided are those created by the defaulting *patnídár*—*Eshan Chandra Kur and others* v. *Madhub Chandra Ghose and others*, I R. J. & P. J. 109. A purchaser is not entitled to collect rent at a higher rate than was demandable by his predecessor without establishing his right so to do—*Magaram Ojha and others* v. *Rájá Nilmani Singh Deo*, XXI W. R. 326, and XIII B. L. R. 198. The purchaser in this case was the zemindár himself.]

Above rule to take effect retrospectively.

XII. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the *zemindár's* reserved rent, will equally apply to the case of *táluks* heretofore sold as to those that may be sold henceforward, if the sale shall have been fair and the process observed in conducting it shall have been that recognized and in use in the district at the time of selling. Nothing however herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a *táluk* and the lessees of his predecessor. Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a *tálukdár* of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the *tálukdár* in favour of the *zemindár*, nor to any act originating with the former holder other than default as aforesaid. All such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

Proviso.

But not to apply to private transfers.

[1] See *Munshi Bazlúl Rohoman* v. *Pran Dhan Dutt*, VIII W. R. 222, and *Goluk Mani Dasi* v. *Haro Chandra Ghose*, VIII W. R. 62.

[2] As to the effect upon incumbrances of a sale of a portion of a *patní táluk* or of a *patní táluk* of a joint undivided share in an estate, see *Monomothanath Dey and another* v. *G. Glascott*, XX W. R. 275.

XIII. *First.* With reference to the injury that may be brought upon the holder of a *táluk* of the second degree by the operation of the preceding rules in case the proprietor of the superior tenure purposely withholds the rent due from himself to the *zemindár* after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such *tálukdárs* the means of saving their tenures from the ruin that must attend such a sale, and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenants a means of staying sale.

Second. Whenever the tenure of a *tálukdár* of the first degree may be advertised for sale in the manner required by the second or third clauses of section 8 of this Regulation for arrears of rent due to the *zemindár*, the *tálukdárs* of the second degree or any number of them shall be entitled to stay the final sale by paying into Court the amount of balance that may be declared due by the person attending on the part of the *zemindár* on the day appointed for sale. In like manner they shall be entitled to lodge money antecedently for the purpose of eventually answering any demand that may remain due on the day fixed for the sale; and, should the amount lodged be sufficient, the sale shall not proceed, but after making good to the *zemindár* the amount of his demand any excess shall be paid back to the person or persons who may have lodged it.

Manner of doing so.

By lodging the advertised balance.

Third. If the amount so lodged shall be rent due by the inferior *tálukdár* to the holder of the advertised tenure, the same shall be stated at the time of making the deposit and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim or rent that may at any time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure on account of the year or months for which the notice of sale may have been published.

In case of rent due being lodged, credit to be given.

Fourth. If the person or persons making such a deposit in order to stay the sale of the superior tenure shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the *táluk* so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled on applying for the same to obtain immediate possession of the tenure of the defaulter in order to recover the amount, so advanced from any profits belonging thereto. If the defaulter shall desire to recover his tenure from the hands of the person or persons who

In case of advance from private funds.

To have the effect of mortgage.

by making the advance may have acquired such an interest therein and entered on possession in consequence, he shall not be entitled to do so except upon repayment of the entire sum advanced with interest at the rate of twelve per cent. per annum up to the date of possession having been given as above, or upon exhibiting proof in a regular suit to be instituted for the purpose that the full amount so advanced with interest has been realized from the usufruct of the tenure.

Defaulter how to recover possession.

[See the case of *Lakhinarain Mitra and another* v. *Khetro Pal Singh Rai and another*, *ante*.

In the case of *Ambika Debi and another* v. *Pranhari Das and others* (IV B. L. R. F. B. 77), the following question was referred to a Full Bench—"Whether an under-tenant, who has saved the superior tenure from sale by depositing the amount of rent due from the holder of that tenure to the zemindár, is bound to apply to the Collector for immediate possession of the tenure thus preserved from sale; or whether he is competent to sue for the recovery of the amount deposited by him in the ordinary way without making any such application." It was held (overruling *Kartick Sarmah* v. *Beidonath Saini*, X W. R. Civ. Rul. 205) that the under-tenant not only has the security of the tenure which he preserved and of which he can obtain possession on application to the Collector, but has also a right to recover the amount deposited by him as a loan in an ordinary suit.

The payment must be made into Court, not to the zemindár out of Court, and it would seem that the payment must be sufficient to stay the sale of the patní—*Mirza Mahomed Hosen Ali v. Sheikh Bakaúla and others*, VI W. R. Civ. Rul. 84, & II R. C. & C. R. Civ. Rul. 86.]

Sale not to be stayed, except the arrear claimed be lodged.

But action to lie for its reversal.

XIV. *First.* Should the balance claimed by a *zemindár* on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account unless the amount of the demand be lodged. It shall however be competent to any party desirous of contesting the right of the *zemindár* to make the sale, whether on the ground of there having been no balance due or on any other ground, to sue the *zemindár* for the reversal of the same and upon establishing a sufficient plea to obtain a decree with full costs and damages. The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale the Court shall be careful to indemnify him against all loss at the charge of the *zemindár* or person at whose suit the sale may have been made.

[A *zemindár* sold the *patní* tenure of his *patnídár* for arrears of rent under the provisions of Reg. VIII of 1814. The *patnídár* successfully sued to have the sale set aside on the ground of the notice having been defective. The *zemindár* upon this brought a suit under Act X of 1859 for the original arrears of rent, to which was pleaded limitation under s. 32 of this latter Act. The Calcutta High Court held this to be a good plea, remarking that the zemindár had committed a trespass by bringing the property to sale with a defective notice and

could not be heard to say that this trespass prevented time from running against his right of action, as this would be allowing him to take advantage of his own wrong; that s. 32, Act X of 1859 was a special statute of limitation for all cases coming under the Act and was not subject to the exceptions contained in Act XIV of 1859; further that the zemindár could have sued and saved his time while the suit was pending to set aside the irregular sale. On appeal to the Judicial Committee of the Privy Council it was held that, without deciding whether the exceptions contained in Act XIV of 1859 apply to the rule of limitation laid down by s. 32, Act X of 1859, the suit was not barred by limitation, as the right of action accrued at the time at which the sale having been set aside the obligation to pay the money revived. Upon the setting aside of the sale and the restoration of the parties to possession, they took back the estate subject to the obligation to pay the debt; and the particular arrears of rent claimed in the action must be taken to have become due in the year in which that restoration to possession took place. Their Lordships of the Privy Council further stated their dissent from the position of the High Court that the appellant had committed an act of trespass, because she had inadvertently omitted one of the formalities prescribed by the Regulation (VIII), and that in bringing the suit for rent she was seeking to take advantage of her own wrong. They also dissented from the remark of the High Court that the appellant might have sued for the arrears pending the proceedings to set aside the sale of the *patní*, it being clear that until the sale had been finally set aside she was in the position of a person whose claim had been satisfied and her suit might have been successfully met by a plea to this effect—*Rání Swarnamayí* v. *Shashí Mukhí Barmaní and others*, XII Moo. Ind. Ap. 244, & II B. L. R. P. C. 10.

The plaintiff's mother sued to recover a portion of a *patní táluk*, which she claimed under a will and to which she would be entitled, whether the will was valid or not, as heir upon the death of the widow of the deceased owner. While this suit was pending, the *táluk* was put up for sale for arrears of rent under the Regulation. She paid these arrears to prevent a sale. The suit abated by her death, and her daughters sued the shareholders in the *táluk* to recover the money so paid. It was held that she had such an interest as entitled her daughters to recover—*Saroda Kumarí Dasí and another* v. *Mohiní Mohan Ghose and others*, XX W. R. 272.

A *patní táluk* belonging to several co-sharers was sold for arrears of rent. One of the co-sharers brought a suit in the Munsíf's Court to set aside the sale, valuing the subject-matter according to his own share and making his co-sharers defendants. *Held* that the suit could not be maintained in this form, that the cause of action was the sale of the whole estate, that the suit should have been framed and valued accordingly and brought in a Court in which the rights of all the parties interested in setting aside the sale could have been declared in a single suit—*Annoda Pershad Rai and others* v. *Erskine and others*, XII B. L. R. 370.

The decree of a Civil Court reversing a sale for non-service of the notice (see above, cl. 2, s. 8,) should provide for the return of the purchase-money—*Sheikh Abdúllah* v. *Umed Ali and others*, VI W. R. Civ. Rul. 321.]

Summary investigation may be applied for by defaulter.

Second. In cases also in which a *tálukdár* may contest the *zemindár's* demand of any arrear as specified in the notice advertised, such *tálukdár* shall be competent to apply for a summary investigation at any time within the period of notice. The *zemindár* shall then be called upon to furnish his *kabúliyat* and other proofs at the shortest convenient notice in order that the award may, if possible, be made before the day appointed for sale. Such award, if so made, will of course regulate the ulterior process; but, if the case be still pending, the lot shall

But not to stay sale without deposit.

be called up in its turn notwithstanding the suit; and, if the *zemindár* or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash or in Government securities or in notes of the Bank of Bengal by the *tálukdár* contesting the demand; and, if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale.

[If there was no arrear of rent at the date of sale, whether notice of the fact had been given to the Collector or not, the sale must be set aside. A summary enquiry as to the fact of an arrear may indeed be made under the above clause, but it is not imperative on the *patnídár* to demand such an enquiry: he may reserve the question for a regular suit; and, if it appear that there was no arrear, the Court is (under cl. 1, s. 14) to take care that the purchaser be indemnified against loss accruing by reason of the sale being in consequence set aside—*Sarúp Chandra Bhumick, &c.* v. *Rájá Pertab Chandra Singh and others, &c.* VII W. R. Civ. Rul. 219, and III R. C. & C. R. Civ. Rul. 148.]

Rules for purchasers obtaining possession.

Zemindár to give transfer on security being furnished, if required.

XV. *First.* So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment. The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the *kachahrí* of the *zemindár*, and upon furnishing security (if required) to the extent of half the *jamá* or annual rent he shall receive the usual *ámaldastak* or order for possession together with the notice to the *raiyats* and others to attend and pay their rents henceforward to him.

Remedy in case of delay.

The *zemindár* shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his *kachahrí;* and, should he in any manner delay the transfer in his office or refuse to give the orders for possession notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court and he shall receive the orders for possession and shall be put in possession of the lands by means of the *nazir* in the same manner as possession is obtained under a decree of Court; provided however that, if the delay be on account of the *zemindár's* contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Proviso.

In case of opposition.

Second. When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself or the holders of tenures or assignments derived from the late incumbent and intermediate between him and the actual cultivators shall attempt to offer opposition or to interfere with the collections of the new purchaser from the lands composing his purchase,

the latter shall be at liberty to apply immediately to the Civil Court for the aid of the public officers in obtaining possession of his just rights. A proclamation shall then issue under the seal of the Court and signature of the Judge, declaring that, the new incumbent having by purchase at a sale for arrears of rent due to the *zemindár* acquired the entire rights and privileges attaching to the tenure of the late *tálukdár* in the state in which it was originally derived by him from the *zemindár*, he alone will be recognized as entitled to make the *zemindárí* collections in the *mufassal* and no payments made to any other individual will on any account be credited to the *raiyats* or others in any suit for rent or on any other occasion whatever, when the same may be pleaded.

Proclamation to issue from Court.

Third. Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser on his presenting a written application for the same; and, in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

In case of further opposition.

Police and all public officers to aid.

XVI. Under-tenures held under engagements similar to those executed between the *zemindár* and *patnídár* having been declared not to be voidable for an arrear of the rent fixed upon them in perpetuity, it will be necessary that the person to whom the said rent may be payable, should (in case he be desirous of holding the tenure answerable in the manner provided for by stipulation in the deeds interchanged) proceed according to the rules of section 15, Regulation VII, 1799 and the general Regulations to have the sale effected at the end of the year in the same manner as heretofore. But it is hereby provided that every such sale shall be public and be conducted [by the Register or acting Register of the *Zillah* Court, or in his absence by the person in charge of the office of Judge or of Magistrate] under the rules of this Regulation, as far as the same may be applicable. Ten days' notice shall be given of such sales by advertisement to be stuck up at the *kachahrís* of the Court and Collector

Under-tenures how to be brought to sale for arrears.

[Section 15, Reg. VII of 1799 has been repealed. This section, together with Act VIII of 1835 and s. 10, Act VI of 1853 were, so far as regards the Lower Provinces of Bengal, repealed by s. 2, Act VIII (B.C.) of 1865—See Note at end of this Regulation.]

XVII. *First.* The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Rules for disposing of the purchase-money of sales for arrears under this Regulation.

One per cent. to be carried to the account of Government.

Second. One per cent. shall first be deducted from the net proceeds realized, and shall be carried to the account of Government for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Zemindár's balance and expenses to be next made good.

Third. The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the *táluk* to sale) to the *zemindár* or other person to whom the same may be due; provided however that no former balances beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year) shall be included in the demand to be thus satisfied.

But not antecedent balances.

Such antecedent balances, if the *zemindár* shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual *tálukdár* and must be recovered in the same way as other debts by a regular suit in the Court.

Remainder to be sent to the Collector's treasury, to answer claims of under-tenants.

Fourth. Any excess that may remain after satisfying the demand of the *zemindár* in the manner above described shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the *tálukdárs* of the second degree or of others who by assignment of the defaulter may be at the time in possession of a valuable interest on the land composing the *táluk* sold or on any part of it.

Under-tenants free to prosecute for the price of their interest or compensation.

Fifth. It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. If the Court shall on investigation consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

Payment how to be made from deposit, if many claims.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately and the remainder stand as a personal debt against the defaulter to be realized from him by the usual process for the execution of decrees.

Action not to lie, if the under-tenant be himself in arrear at the time of sale.

Sixth. Provided however that no *tálukdár* of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or

assignment upon its becoming cancelled by sale of the superior *táluk*, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

[In the case of *Issan Chandra Rai Pandah* v. *Tarini Persad Ghose* (II. Sev. 84,) this provision was applied, although there was a stipulation in the contract creating the *dárpatní* tenure, that the *dárpatnídár* would be entitled to damages if the *patnídár* allowed the *patní* tenure to be sold or cancelled—it being decided that this stipulation must be held to be applicable only if the *patní* were sold owing to the sole neglect or default of the *patnídár* in not paying his rent, and could not equitably be applied where the sale resulted from the *dárpatnídár* failing to perform his contract and pay his own rent.]

In case of no claim in two months, or only partial claims, defaulter to receive the excess unclaimed.

Seventh. Should no claims upon the purchase-money of a *táluk* sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit or for the excess thereof, as the case may be; and he shall receive a certificate under the seal of the Court of there being no claims to afford ground of detention for the whole or any part of the deposit and, upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt. In the same manner upon executing a decree passed in favour of any under-tenants or assignees they shall receive certificates under the seal of the Court declaring the amount adjudged to them out of the deposit and, upon exhibiting these certificates, the amount shall be paid severally to their receipts by the Collector.

Any party interested may substitute Government securities for cash in deposit.

Eighth. It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities bearing interest in lieu of the money so held in deposit, such securities to be taken at the rate of discount or premium of the day as shown by the Government Gazette last received.

[Clause 1, s. 16, Reg. VII of 1832 modified the provisions of this Regulation and of Reg. I of 1820 as to the person by whom sales should be conducted, and enacted that such sales should be made in future by the Collector or Deputy Collector or Head Assistant to the Collector, subject to an appeal to the Commissioner of Revenue for the Division on the ground of the irrelevancy of the Regulation. The whole of s. 16, Reg. VII of 1832 was however repealed by Act X of 1861, in so far as relates to the territories to which Act VIII of 1859 has been or may be extended, *saving however so far as the said section repealed the whole or part of any previous Regulation* (see s. 1 and Sch. Act X of 1861). It is to be observed that cl. 1, s. 16, Reg. VII of 1832 expressly *repealed* nothing. The words 'repeal,' 'rescind' do not occur therein, the word '*modified*' alone being used. It might seem therefore that the effect of the repeal of s. 16, Reg. VII of 1832 was to leave the law in the same position in which it had been before the passing of this Regulation. This doubt was set at rest, so far as regards the Lower Provinces of Bengal by Act

Sales by whom to be conducted.

VIII (B.C.) of 1865 (see Preamble), the provisions of which Act will be hereafter noticed. Section 1 of Act VIII of 1835 repealed such parts of cl. 7, s. 15, Reg. VII of 1799 and other Regulations then in force, as vested the Judge with the power of bringing to sale in execution of summary decrees for rent the *táluk* or other tenure of the defaulter, also so much of cl. 3, s. 23, Reg. VII of 1822 as prohibited Collectors from selling land in satisfaction of summary awards for arrears of rent which had accrued thereon; and transferred to the Collectors of Land Revenue the power previously vested in the Judges of the Díwání Adálat of selling land in satisfaction of summary decrees for rent. Section 2 enacted that all sales for the recovery of arrears of rent or revenue held under cl. 7, s. 15 (now repealed), or cl. 6, s. 23 or s. 25[1] (both now repealed) Reg. VII of 1799 should be public and be conducted by the Collector, his Deputy or duly authorized Assistant; and that ten days' notice should be given of such sales by advertisement to be stuck up at the *kachahrí* of the *Zillah* Court or local adálat and that of the Collector. This second section, being expressly limited in its application, has clearly nothing to do with sales of tenures of the nature of those described in cl. 1, s. 8, Reg. VIII of 1819. The effect of the first section was that (1) such portions of the law were repealed as vested the Judge with the power of bringing defaulters' *táluks* or other tenures to sale in execution of *summary decrees for rent;* (2) so much of cl. 3, s. 23, Reg. VII of 1822 was repealed as prohibited Collectors from selling land *in satisfaction of summary awards for arrears of rent* which had accrued thereon; and (3) the power, previously vested in the Judges, of selling land in satisfaction of summary decrees for rent was *transferred to the Collectors of Land Revenue.* The second of these propositions has exclusive reference to awards made by Collectors acting under Reg. VII of 1822, and has no bearing on the present subject. The first and third propositions refer to the same thing, but are concerned only *with sales in execution of summary decrees for rent.* The combined effect therefore of cl. 1, s. 16, Reg. VII of 1832 and of Act VIII of 1835 was to transfer from the Judges and officers of the Civil Courts to the Collectors and officers of the Revenue Courts the duty of selling *patní táluks* and other saleable tenures, whether such sales were made (1) under the rules contained in ss. 8, 9 and 10 of Reg. VIII of 1819, which do not require that there should be a decree for the rent in arrear; or (2) in execution of summary decrees for rent (see *ante*, pp. 162, 163).

Act VIII of 1835.

Forfeited Deposit.

So much of s. 9, Reg. VIII of 1819 as provides that the deposit, if forfeited, shall be regarded as part of the proceeds of sale, was repealed by Act XXV of 1850, section 2 of which enacted that such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government. This Act was repealed by Act X of 1861, so far as relates to sales in execution of decrees; but as to other sales it still remains in force.

Act VI of 1853.

The next Act to be noticed is Act VI of 1853, entitled "*an Act relating to Summary Suits for Arrears of Rent, to Sales of Patní Táluks and other saleable Tenures, and to Sales of Land in satisfaction of Summary Decrees for Rent.*" The first section provides that the Collector, in whose Collectorate the greater part of the lands is situate, shall conduct such sales and try such summary suits. The second section provides for a reference to the Board, where there may be a doubt. Section 3 defines "Collectorate" to be the *zillah* or district to which a Collector may be appointed, but that no lands situate beyond the limits thereof shall be deemed to be included

[1] Clause 6, s. 23, Reg. VII of 1799 relates to the recovery of arrears of revenue due from farmers at the close of the year and has been repealed. Section 25 of the same Regulation relates to the recovery of rent in estates under the immediate management of Government and has also been repealed. Neither section is concerned with the subject under discussion. As to cl. 7, s. 15, see above, *post.*

therein by reason only of their forming part of an estate paying revenue to the Collector thereof Sections 4 and 5 enact that the local jurisdiction of a Deputy Collector appointed by Government to act independently of a Collector shall be deemed a Collectorate; and by section 6 the notice of sale may be stuck up at the *kachahri* of such a Deputy Collector. Section 7 enacts that an independent Deputy Collector may exercise his powers in public *kachahri* held in any part of his jurisdiction. Section 8 provides that notices required to be stuck up at the *Zillah* or local Court shall be stuck up at the Court within the jurisdiction of which the lands to be sold or the greater part of them may be situate. Section 9 validates acts done before the passing of the Act, &c. Section 10 enacts that Act XXV of 1850 (as to forfeited deposits) (see above) and section 9, Reg. VIII of 1819 (as to the conduct of sales) as modified by clause 1, section 16, Reg. VII of 1832, except so far as the same has been altered by the said Act XXV of 1850, shall be extended to all sales under Act VIII of 1835, that is (so far as this Act is concerned with the present subject), to *sales in execution of summary decrees for rent.* The result of this was briefly that sales in execution of summary decrees for rent were to be made after ten days' notice given in the manner provided in s. 2, Act VIII of 1835, were to be conducted according to the procedure of s. 9, Reg. VIII of 1819 and were subject to the rules as to forfeit of deposits contained in Act XXV of 1850.

Section 2, Act VIII of 1835 speaks of "sales for the recovery of arrears of rent or revenue held under cl. 7, s. 15, or cl. 6, s. 23 or s. 25, Reg. VII of 1799." It has been already pointed out (*ante*, p. 512 note) that cl. 6, s. 23, and s. 25 have no connection with the present subject. It remains to examine cl. 7, s. 15, the portion of which pertinent to the matter of this Note is as follows:—"If the defaulter be a dependent *tálukdár* or the holder of any other tenure which by the title deeds or established usage of the country is transferable by sale or otherwise, it may be brought to sale by application to the *Díwání Adálat* in satisfaction of the arrear of rent." There are two classes of tenures here spoken of, *viz.*—(1) *tenures transferable by the title-deeds*; (2) *tenures transferable by the established usage of the country.* Section 8 of Reg. VIII of 1819 speaks of the first class only, *viz.* "tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure"—and a sale of tenures of this class, when made under the Reg. (VIII of 1819) conveyed the tenure free of all incumbrances that accrued upon it by the act of the defaulter (s. 11). In case of a sale of a tenure of this class made otherwise than under the Regulation this result did not follow, for cl. 7, s. 15, Reg. VII of 1799 did not declare that a sale should have this effect, and there was no other Regulation which did. This anomaly was however remedied by Reg. I of 1820 (see Preamble, *post*) which enacted that tenures of the nature defined in cl. 1, s. 8, Reg. VIII of 1819, *i.e.* tenures of the *first* of the above classes, when brought to sale under any summary process authorized by the Regulations, should be sold in the mode prescribed by Reg. VIII for the periodical sales allowed thereby. Clause 2 of s. 2 further made applicable to all such sales the rules of ss. 9, 11 (voidance of incumbrances by sale), 13, 15 and 17. The result was that after the passing of Reg. I of 1820, whenever a sale of a tenure of the *first* of the above classes took place for arrears of rent, whether such sale were made under the provisions of s. 8, Reg. VIII of 1819 or under any summary process authorized by the Regulations, the sale passed the tenure free of all incumbrances which had accrued by the act of the defaulter, with the exception of those mentioned in cl. 3, s. 11, Reg. VIII of 1819.

Two classes of Transferable Tenures.

Incumbrances on First Class avoided by Sale.

In the case of the *second* class of tenures, however, *i.e.* tenures transferable by the established usage of the country, a sale had no such effect until the passing of Act VIII (B.C.) of 1865—*Shahabúdín* v. *Futteh Alí and another*, B. L. R. Sup. Vol. F. B. 645; VII W. R. Civ.

So as to Second Class by Act VIII (B.C.) of 1865.

Rul. 260; V R. C. & C. R. Rent Rul. 13, and II In. Jur. N. S. 135, quoted and approved by the Privy Council in *A. J. Forbes* v. *Lachmipat Singh and others*, XIV Moo. Ind. Ap. 330, and X B. L. R., 139: *Brindaban Chandra Chaudhri and others* v. *Brindaban Chandra Sirkar Chaudhri and others*, VIII W. R. Civ. Rul. 507, and V R. C. & C. R. Rent. Rul. 31: *Mohima Chandra Dey* v. *Gúrú Das Sen*, VII W. R. Civ. Rul. 285: *Hari Charan Bose* v. *Meheranissa Bibi and others (ousat hawalas)*; VII W. R. Civ. Rul. 318, and III R. C. & C. R. Civ. Rul. 218. It follows that the mere fact of a sale under Act VIII of 1835 does not necessarily avoid incumbrances until it be known to which of the above two classes the tenure sold belongs—*Dwarkanath Das Biswass and others* v. *Manik Chandra Das*, IX W. R. Civ. Rul. 200, and V R. C. & C. R. Civ. Rul. 154. See however *Mussamat Zinat Bibi* v. *Mussamat Rahatanissa and another*, VII W. R. Civ. Rul. 243, and *Dwarkanath Das* v. *Manik Chandra Das*, III W. R. Civ. Rul. 197, which, if the reports be correct, are more than doubtful. Indeed, the last of these two cases was expressly overruled in the Full Bench case of *Shahabúdín* v. *Futteh Alí and another*, above quoted.

Sale under section 105, Act X of 1859.

A *patní* tenure was sold for arrears of rent under s. 105, Act X of 1859. *Held*, having reference to the Full Bench case of *Shahabúdín* v. *Futteh Alí* (VII W. R. Civ. Rul. 260) that the tenure would pass to the purchaser free of incumbrances or not, according as the right of bringing the tenure to sale for an arrear of rent had or had not been specially reserved by stipulation in the engagements interchanged on the creation of the tenure—being precisely the same result which would have happened, had the tenure been sold for arrears of rent under the law in force (*i.e.* Reg. VIII of 1819) at the time of the passing of Act X of 1859. As however there was no evidence to show that the right of selling or bringing to sale this tenure for an arrear of rent had been specially reserved by stipulation in the engagements interchanged on the creation of the tenure, the High Court decided that the sale did not avoid incumbrances—*Brindaban Chandra Chaudhri, &c.* v. *Brindaban Chandra Sirkar Chaudhri and others*, VIII W. R. Civ. Rul. 507, and V R. C. & C. R. Rent Rul. 31. This decision was reversed on appeal by the Privy Council. Their Lordships said:—"The *question arises*, whether upon the sale of the *patní* under the decree for rent it was sold free from the incumbrances which had been created by the *patnidár* or, in other words, whether it was sold free from the *dárpatní*. That depends upon the construction of s. 105 of Act X of 1859. That section enacts:—"If the decree be for an arrear of rent due in respect of an under-tenure which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof, contained in any law for the time being in force." It has been held, upon the construction of those words, "according to the rules for the sale of under-tenures," that the effect of Regs. VIII of 1819 and I of 1820 is applicable to cases of sales under decrees of rent made under this section 105; and then the question arises, whether this was a sale for an arrear of rent "due in respect of an under-tenure which by the title-deeds or the custom of the country is transferable by sale." The plaintiff in his plaint *describes the tenure as a patní táluk*, and his own tenure as a *dárpatní*; and the point is whether, under the description of "patní" and "dárpatní," it is to be presumed that the patní tenure was one such as is described as the tenure denominated a *patní* by Reg. VIII of 1819. In the Preamble of that Regulation, which (as contended for by the learned Counsel), it must be admitted, is not an enactment, but merely a recital, it is said:—"By the terms of the engagements interchanged it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the *zemindár* and, if the sale do not

yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be answerable for the demand. These tenures have usually been denominated *patní táluks.*" Their Lordships are of opinion that, under the description "*patní táluk*" and "*dárpatní táluk*," it must be *primâ facie* intended that the tenure called a *patní* tenure was a tenure transferable by sale, and upon the creation of which it was stipulated by the terms of the engagements interchanged that, in case of an arrear occurring, the estate might be brought to sale. If so, according to the terms of Reg. VIII of 1819, the tenure might not only be brought to sale, but it might be sold free from incumbrances. By section 8 of Reg. VIII it is enacted :—"Proprietors under direct engagement with the Government shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale"—not, the right of selling or bringing to sale free from incumbrances, but—"upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure." Then by section 11 the effect of such a sale is stated as follows—"It is hereby declared that any *táluk* or saleable tenure, that may be disposed of at a public sale under the rules of this Regulation for arrears of rent due on account of it, is sold free from all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *táluk* may have been held." It appears therefore to their Lordships that this was the sale of a *táluk* transferable by sale, and upon which the right to sell for arrears of rent was reserved in the engagements entered into by the parties. Consequently, according to the effect of s. 105 of Act X of 1859, and sections 8 and 11 of Reg. VIII of 1819, and probably also of Act I of 1820, the effect of the sale of the *patní táluk* was to destroy all incumbrances which had been created by the *patnídár*, and consequently to destroy the particular incumbrance which is mentioned in the plaint in this suit, namely the *dárpatní* of the plaintiff—I L. R. I. A. 178; XIII B. L. R. 409; and XXI W. R. 324.

A Civil Court has jurisdiction to entertain a suit brought by the real owner of a tenure sold under section 105 of Act X of 1859 on the ground that the sale was held in execution of a decree obtained for purposes of fraud against another person not the owner—*Ram Sundar Paramanick and others* v. *Prasanna Kúmar Bose and others*, B. L. R. Sup. Vol. F. B. 382. The word "tenure" in section 105 means, not the right and interest of an individual in the land, but the holding or the interest created by the lease, and it is the latter which is sold under the section. Therefore, where the right, title and interest of A in such a tenure were sold in execution of a decree of the Civil Court for debt and purchased by B, who did not have the transfer to himself registered in the *zemindár's sarrishtah*; and, previous to the confirmation of this sale, the *zemindár* sued A for rent, got a decree and in execution thereof sold the tenure under this section, and it was purchased by C—it was held that B was not entitled to recover possession from C—*Shamchand Kándú and others* v. *Brajanath Paul Chaudhri and others*, XII B. L. R. 484, and XXI W. R. 94.

Provisions of Act VIII (B. C.) of 1865.

I now proceed to notice the provisions of Act VIII (B.C.) of 1865, which applies to both classes of tenures, being entitled "*An Act to amend the law for the Sale of such under-tenures as by the Title-deeds or Established Usage of the country are Transferable by Sale or otherwise for the recovery of arrears of rent due in respect thereof.*"

Section 1 defines the word 'Collector' to include all officers exercising the full powers of a Collector of a district. Section 2 repeals s. 16, Reg. VIII of 1819, Act VIII of 1835, and s. 10, Act VI of

1853. Section 3 enacts that the sale for the recovery of arrears of rent of *patní táluks* and other saleable under-tenures of the nature defined in cl. 1, s. 8, Reg. VIII of 1819 shall be conducted by the Collector in whose jurisdiction, as defined by Act VI of 1853, the lands lie, and all acts preparatory to or connected with the sale of such under-tenures, which by Regs. VIII of 1819 and I of 1820 the Judge is required to perform, shall be performed by the said Collector. Section 4 provides that when a decree for an arrear of rent due in respect of *an under-tenure saleable under the provisions of s.* 105, *Act X of* 1859 shall have been obtained, and an application for the sale of such under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is being executed shall have hung up in his Court and in that of the Collector and the Judge of the district, within which the under-tenure is situate, a notice of sale to be held on some date not less than 20 days from the hanging up of the notice in the first mentioned Court. A copy of the notice is also to be affixed on the land and in the town or village nearest thereto. This notice is by section 5, to describe the under-tenure in the language of the plaint. The sale may be stopped (s. 6) if the sum due under the decree together with interest and costs be paid into Court at any time before the sale commences either by the defaulting under-tenant or by any one on his behalf, or by any one interested in the protection of the under-tenure. The provisions of section 13, Reg. VIII of 1819 are applicable for the recovery of sums paid by others than the defaulter in order to stay the sale of the under-tenure. The under-tenure is to be sold to the highest bidder in open Court (s. 7). The purchaser is immediately to deposit in cash or Government currency notes twenty-five per cent. of the amount of his bid. In default, the under-tenure shall be put up again and sold forthwith or on the next office day. The balance of the purchase-money must be paid up before sunset of the eighth day (counting inclusively) or of the first office day after, if such eighth day be a close holiday. In default the deposit will be forfeited to Government, and the under-tenure will be sold under the same rules, and the defaulting purchaser will be liable for any difference between the sale proceeds ultimately realized and his own bid, such difference to be realizable as an arrear of rent (ss. 9, 10). On paying up the full purchase-money, the purchaser will receive a certificate, and an *Amín* may be deputed to put him in possession (s. 11). The sale-proceeds will be appropriated to pay the costs of sale and to satisfy the decree; and the balance (if any) will be held in deposit for the defaulting under-tenant (s. 12). An appeal lies from any proceedings of a Deputy or Assistant Collector to the Collector within fifteen days; and from the original proceedings of a Collector to the Commissioner within thirty days. No proceedings are however to be reversed or modified on appeal except on the ground of irrelevancy of the law or of such an irregularity in procedure as has caused injury to the interests of one of the parties to the suit (s. 13). No appeal lies as of right from an order passed in appeal, but the Commissioner in the case of an appeal heard by a Collector, and the Board in the case of an appeal heard by a Commissioner may call for the record within three months and pass such orders as may seem fit (s. 14). Where a sale is set aside, the purchaser is entitled to a refund of his purchase-money with or without interest, as the appellate authority may direct, and the re-payment may be enforced as a decree for an arrear of rent (s. 15).

Avoidance of incumbrances.

The purchaser of an under-tenure acquires it free from all incumbrances which may have accrued thereon by any act of the under-tenant, unless he were expressly vested with the power of making such incumbrances. He may not however eject *khúdkasht* raiyats or resident and hereditary cultivators, nor cancel *bonâ fide* engagements made with such, unless he prove in a

[1] See *ante*, p. 105, note 3.

regular suit that a higher rent would have been demandable at the time their engagements were contracted. A defaulter purchasing in the tenure acquires no right of avoiding incumbrances (s. 16).[1] The purchaser is to apply to the *zemindár*, within fifteen days from date of sale, to have his name registered and is to execute a kabúliyat; if he fail to do so, the *zemindár* may sue him under cl. 1, s. 23, Act X of 1859 (s. 19). Section 18 validates sales made before the passing of the Act. These sale provisions apply whenever a decree has been obtained for an arrear of rent[2] due in respect of an under-tenure saleable under the provisions of s. 105 of Act X of 1859, that is, an under-tenure which by the title-deeds or the custom of the country is transferable by sale. Section 105 enacts that such a tenure may, on the application of the judgment-creditor, be brought to sale in execution of the decree according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof, contained in any law for the time being in force. It has been shown that the effect of these words was to incorporate in the section the provisions of s. 15, Reg. VII of 1799, and ss. 8 and 11 of Reg. VIII of 1819, and by so incorporating them substantially enact that tenures of the description mentioned in s. 8, Reg. VIII of 1819, *i.e.* tenures of the *first class* already mentioned should be sold free of incumbrances, while no such effect resulted from the sale of tenures of the second class—*Shahabúdín* v. *Fateh Ali and another* (see above, p. 513); *Brindaban Chandra Sirkar Chaudhrí* v. *Brindaban Chandra Dey Chaudhrí* (see above, p. 514). This was before the passing of Act VIII (B.C.) of 1865, which (as we have seen) altered the law, and the provisions of which (s. 16) as to a sale avoiding incumbrances now apply equally to both classes of tenures.[3]

The tenures *transferable by the title-deeds or established usage of the country* spoken of in s. 15, Reg. VII of 1799 were tenures held under a *zemindár*, *tálukdár*, or proprietor, or farmer of land (see cl. 1,) *i.e.* under a person who had engaged direct with Government. That law does not appear to have contemplated tenures in the second degree or still lower, which I may designate by the term '*sub-tenure*,' the word 'under-tenure' having become obscure and indefinite.[4] Section 16 of Reg. VIII of 1819 would appear to have first provided for the sale of *sub-tenures*, but its provisions were limited to a certain class of *sub-tenures*, *viz.* those held under engagements similar to those executed between the *zemindár* and *patnidár*, and which had been declared (by s. 4, read with cl. 3 of s. 3 of the Regulation) not to be voidable for an arrear of the rent fixed upon them in perpetuity. There would appear to have been no law which directly provided for the sale of sub-tenures other than these. As a matter of fact however a practice

Sale of sub-tenures.

[1] See the cases quoted, *ante*, p. 106 note.

[2] Summary suits having been abolished by Act X of 1859: the decrees above referred to are the only decrees for rent known to the law. It may be interesting to the Reader to notice the difference between the sale provisions in ss. 8, 9 and 10, Reg. VIII of 1819 still operative in respect of the periodical sales therein provided for, and those contained in Act VIII (B.C.) of 1865. Under the latter enactment, for example, *twenty-five per cent.* of the purchase-money is to be deposited instead of fifteen per cent. under the former. The difference between the language of s. 11 of Reg. VIII of 1819, and s. 16, Act VIII (B.C.) of 1865 may possibly lead to the result that a sale under the Regulation would avoid an interest that would be safe on a sale under the Act. The Regulation speaks of *incumbrances* (cl. 1) and *leases* (cl. 2). The Act speaks of *incumbrances* only.

[3] A nice question may arise as to whether a Civil Court in a district, in which Act VIII (B.C.) of 1869 had been put in force, has power to sell one of these tenures in execution of its own decree for rent which accrued thereon. This Act does not repeal, amend or alter Act VIII (B.C.) of 1865, section 3 of which enacts that such sales are to be conducted by the Collector. Sections 59 to 63 of the Act of 1869 appear to contemplate a sale by the Civil Court, inasmuch as they provide a sale procedure, which would be unnecessary if the sale was to be made by the Collector under the Act of 1865.

[4] See *ante*, p. 106, note.

sprang up of selling sub-tenures of various kinds not belonging to this class. Section 105 of Act X of 1859, and Act VIII (B.C.) of 1865 apply to *sub-tenures* (as well as tenures) of all kinds, which are transferable by the title-deeds or the custom of the country, there being no distinction between decrees for rent obtained by landlords under direct engagements with Government and other landlords.

A granted a *patní* lease to B, receiving a certain sum as a fine or consideration for the same. The lease contained a stipulation to the effect that if, when a *hastabúd* or rent-roll were prepared, it appeared that the aggregate rents fell short of what had been stated, A would, on an application being made within six months, appoint a person to check the rent-roll on his behalf and, if it turned out that the deficiency was real, he would make a proportionate reduction of the rent reserved and refund a proportionate amount of the consideration-money. B sued in the Civil Court for such reduction and refund. It was objected that it was a suit for abatement of rent and therefore cognizable only in the Revenue Courts under Act X of 1859. *Held* by a Full Bench that the suit was not for an abatement of rent, but for a declaration that, according to the terms of the lease, the rent really payable was less than the sum nominally inserted therein, and that the suit, mixed up as it was with a claim for the refund of consideration-money, was properly cognizable in the Civil Court—*Rájá Nilmaní Singh* v. *Anna Persad Múkherji*, I B. L. R. F. B. 93, and V R. C. & C. R. Civ. Rul. 50. In another case between the same parties B, having been compelled by A under Reg. VIII of 1819 to pay up during three years the full rent mentioned in the lease, sued for a refund of the sum to a reduction of which he was held entitled as above. It was objected that he should have included this claim in his former suit, and not having done so he was barred by s. 7, Act VIII of 1859, which forbids splitting of claims. *Held*, overruling *Rájá Nilmaní Sing* v. *Iswar Chandra Ghosal* (IX W. R. Civ. Rul. 121,) that the action was maintainable, as the plaintiff could not in the former suit have recovered damages in respect of those years, which had not arrived when that suit was brought, and for which he had not paid nor been called on to pay—I B. L. R. F. B. 97.

Right of a Patnídár to abatement of rent.

A *patnídár* may sue for abatement under s. 23, Act X of 1859—*Ramnarain Bannerji* v. *Jai Krishna Mukherji*, B. L. R. Sup. Vol. F. B. 70. A granted to B a *patní* of a certain *mauza*. Appertaining to the *patní* was a *bíl*, stated in the agreement to be held of Government in *ijárá*. It was agreed that on the expiry of the *ijárá* lease A would re-settle with Government for the *bíl*; if not, B might settle, but if the *jamá* exceeded Rs. 40, the excess was to be paid by the *patnídár*. On the expiry of the *ijárá*, Government sold the *bíl* to a third party who took possession, whereupon B sued for abatement of the *patní* rent. It was held that he was entitled to succeed. *Phear, J.* said:—"I think it is now too late to say that the Revenue Courts have no jurisdiction to entertain a suit for abatement in all cases where the holding of the tenants has diminished since the time when he received possession from the landlord, whatever may have been the cause of the diminution and whether it effected an absolute destruction of the subject or not"—*Brajanath Pal Chaudhri* v. *Hiralal Pal*, I B. L. R. A. C. 87, and see *ante*, p. 216.

A suit by a *patnídár* for abatement of rent on the ground of fraud in the concealment of an intermediate tenure created by the *zemindár*, though it cannot be maintained under s. 18, Act X of 1859, may yet be tried by the Collector under cl. 3, s. 23, Act X of 1859, which is wide enough to admit of such a case being tried in the Revenue Courts under its provisions—*Múlví Súkar Alí* v. *Mussamat Amala Ahalya and others*, V R. C. & C. R. Rent Rul. 29, and VIII W. R. Civ. Rul. 504.

As to the right of a *patnídár* to resume *lakhiráj* land, see *ante*, p. 259.

A *patnidár* cannot of his own choice throw up his *patni* and so avoid the liability to pay rent, though circumstances may occur under which the interference of a Court of Justice may fairly be invoked to put an end to the contract—*Hira Lal Pal* v. *Nilmani Pal and others*, XX W. R. 383. Can patnidár relinquish his tenure?

A *patnidár* applied under s. 10, Act VI (B.C.) of 1862 to measure the *raiyats'* holdings separately. Between the *patnidár* and the *raiyats* there was a *dárpátnidar* and *shikmi tálukdars*. *Held* that the application was rightly refused, as the *raiyats* did not pay rent to him. It was observed however that applicant might be entitled under s. 9 of the same Act to make a general survey of the land comprising the *dárpátní*—*Dwarkanath Chakravartti, &c.* v. *Bhawani Kishore Chakravartti and others*, VIII W. R. Civ. Rul. 11. Right of patnidár to make a Measurement.

A suit for partition will lie by a joint owner of a *patni talúk*, but such partition will not affect the liabilities of the *patnidárs* under their several contracts with the *zemindárs*. It may be laid down broadly that, in all cases of joint ownership, each party has a right to demand and enforce partition—in other words, a right to be placed in a position to enjoy his own right separately and without interruption or interference by others. The costs were directed to be borne in proportion by plaintiff and defendants, being the necessary expenses of obtaining a partition by a decree of Court, caused not by any wrongful act of the defendants but by the nature of the tenancy—*Rani Shama Sundari Debi* v. *Jardine, Skinner and others*, III B. L. R. Appen. 120. Patnidár entitled to Partition.

The *zemindár* is primarily liable for the *zemindári dâk* charges leviable under Act VIII (B.C.) of 1862, but if a *patnidár* were under the old law liable for these charges or had been in the habit of paying them, Act VIII, not being intended to impose any new tax but to consolidate and regulate a previously existing liability, would not alter any right a *zemindár* might have had to reimburse himself these charges from the under-holders. The case of *Bissonath Sarkar* v. *Rani Surnamayi* (IV W. R. Civ. Rul. 6) was remanded to ascertain whether the *patnidár* had been in the habit of bearing these charges. In the case of *Saroda Súndari Debya* v. *Umacharan Sirkar* (III W. R. S. C. C. Ref. 17) the terms of the lease were clear, and the *patnidár* was held liable. In the cases of *Saroda Súndari Debya* v. *Tarini Charan Saha* (III W. R. S. C. C. Ref. 19) and *Rakhal Das Mukherji* v. *Rani Surnamayi* (VI W. R. Civ. Rul. 100) the *patnidár* was held not liable under the term of the contract. So also *Rohini Kant Rai* v. *Tripúra Sundari Dasi and others*, VIII W. R. Civ. Rul. 45; *The Maharájá of East Burdwan* v. *Sibnarain Rai and others*, IV R. C. & C. R. Civ. Rul. 247. A suit by a *zemindár* against a *patnidár* to recover the *dâk* charges paid by the former, and founded on the contract between the parties is a suit cognizable by Courts of Small Causes in those districts where such Courts exist: and, when tried by the ordinary Civil Court, no special appeal lies, having advertence to s. 27, Act XXIII of 1861—*H. S. Erskine* v. *Trilochan Chatterji and others*, IX W. R. Civ. Rul. 518; *Maharájá Dheraj Mahtab Chand Bahadúr* v. *Radha Binod Chaudhri*, VIII W. R. Civ. Rul. 517. Liability for zemindári dâk charges.

A *patni* tenure was sold for arrears of rent and was purchased in the name of A. The *zemindár* subsequently treated A as the tenant, and petitioned to sell the *patni* for arrears of rent, which became due after the sale and which he alleged to be due from the said A. These arrears were however paid, and the tenure was not sold on this occasion. Subsequently, the *zemindár* sued A, B and C jointly in the Collector's Court for arrears of rent, alleging that the tenure was purchased by B, and C, B's wife, in the name of A, *benámi* for them. The case came before a Division Bench of the Calcutta High Court, who submitted two questions to a Full Bench, *first*, whether the Collector was competent to try whether B alone was beneficially interested in the *patni*, which was bought in the name of A, on the ground that whatever interest B's wife, C, might

have had in it was *benámí* for him; or whether B and C were jointly beneficially interested in the *patní* bought in the name of A, or if not jointly, what were their respective interests therein, for the purpose of ascertaining whether B and C were jointly liable for the rent, or whether they were to be rendered liable according to their respective beneficial interests in it; *second*, whether the *zemindár* having made his election to treat A as his tenant, when he petitioned under Reg. VIII of 1819 for the sale of the *patní* for arrears of rent, could afterwards elect to treat the persons beneficially interested as his tenants. There was doubt in the minds of two out of the five Judges, who constituted the Full Bench, as to whether the first question ought to be answered in the particular case, but they eventually expressed their opinions on the point raised therein to be the same as those of the other three Judges. The five Judges were therefore unanimous, *first*, that the Collector was not competent to try whether B and C were liable for the rent, such question depending upon equitable rights and liabilities arising from circumstances other than those of the relationship of landlord and tenant; and *secondly*, that the fact of the *zemindár* having treated A as his tenant, when he was not aware of the whole circumstances of the case, would not estop him from treating other persons as his tenants afterwards, when he knew of those circumstances—*Prosonno Kúmar Paul Chaudhrí, &c.* v. *Koilas Chandra Paul Chaudhrí*, II Ind. Jur. N. S. 327; B. L. R. Sup. Vol. F. B. 759; VIII W. R. Civ. Rul. 428, and V R. C. & C. R. Rent Rul. 2. The question of a *benámí* purchase occurred also in the following case:—*Mahomed Kadir* v. *Gopal Lal Thakúr*, II Sev. 861.

A *patní* tenure was sold by auction for arrears of rent and was purchased in by the *zemindár*, who had created it. More than 12 years before this purchase a neighbouring *tálukdár* had encroached on the *patní*, and the question was whether his 12 years' possession was a good bar against the *zemindár* suing to recover the land encroached upon. *Phear, J.* held the *zemindár* not barred, regarding him as claiming not through the *patnídár*, but by virtue of his original rights as *zemindár*, in virtue of which he was entitled to the possession of the lands in their entirety which had been originally granted in *patní*, and considering that a new cause of action arose when on the merger of the *patní* in the *zemindári* possession was withheld from the *zemindár*. *Bayley, J.* (whose opinion as that of the Senior Judge prevailed) held the *zemindár* barred, as he might have sued at any time to vindicate his proprietary rights, which were not affected by the intermediate *patní* right to collect the rents and take the profits—*Raj Narain Rai and others* v. *Umesh Chandra Gúpta and others*, VIII W. R. Civ. Rul. 444, and IV R. C. & C. R. Civ. Rul. 261. In the view of *Bayley, J.* a *patní* is an estate carved out of the proprietary right and not an assignment of that right, and with this agrees the decision that the *zemindár* retains the power to resume invalid *lakhiráj*, this power being an incident of proprietorship. See *ante*, p. 259.

A was dispossessed by B, who six years after such dispossession granted a *patní* lease to C on payment of a premium. A sued both B and C for *wasilat* or *mesne profits*. *Held* that C the *patnídár* was liable to the extent of the profits taken by him from the land, and that whether he had anything to do with the ouster of A was immaterial—*Srishtídhar Saha* v. *Maharájá Jagudindur Banwarí Gobind*, II Sev. 310.

A suit will not lie in the Collector's Court under s. 2, Act X of 1859 to compel the delivery of a *patní* lease in pursuance of an agreement—*Madhab Chanda Sirkar* v. *Benod Mohan Chaudhrani*, II Sev. 752.

A, in consideration of Rs. 200, granted to B a *patní* lease of land which it was held on the evidence he must have known not to be his *mál* land, but the *lakhiráj* land of a third party, who in a suit against A and B successfully asserted his title. The High Court decided that A was

liable to refund to B the consideration-money, the amount of rent received by him, and the law expenses incurred by B as a party to the suit by the *lakhirájdár*; and this, notwithstanding there was no covenant for such refund in the *patní* lease—*Rájá Nilmaní Singh* v. *Gordon, Stuart & Co.* IX W. R. Civ. Ap. 371. A gave a *patní* lease to B, which was not registered, and subsequently gave another *patní* lease of the same land to C, which was duly registered under the provisions of Act XVI of 1864. B sued to compel A to register his lease and to set aside the subsequent lease granted to B. *Held* that if the suit had been brought in time and a decree passed within four months (s. 18, Act XVI of 1864), an order might have issued compelling A to appear and register the lease, but four months having expired such an order could not issue. *Held* also that, the lease being inadmissible in evidence in consequence of non-registration, its existence could not be proved by parol evidence—*Manmohiní Dasí and others* v. *Mussamat Bishen Mayí Dasí*, III R. C. & C. R. Civ. Rul. 103, and VII W. R. Civ. Rul. 112. When land was taken up for public purposes and a question arose as to the principle upon which the amount of compensation given by Government was to be divided between the *zemindár* and the *patnídár*, it was held that the way to look at the case was that it is was a sale by the *zemindár* and *patnídár* of their respective interests in the land—that the *zemindár* was entitled to his fixed rent—if there was no abatement of the rent and the *patnídár* continued to pay the same rent as before, there was nothing for which the *zemindár* ought to receive compensation—that the proper mode of settling the rights of the parties was to give the *patnídár* an abatement of rent in proportion to the quantity of land taken from him, and to compensate the *zemindár* for the loss of rent thus sustained by him—and that the amount of compensation should be divided accordingly. In the particular case, the *zemindár* was allowed *sixteen* years' purchase of the rent which he lost by the abatement given to the *patnídár*—*Rai Kissorí Dasí* v. *Nilkant Dey and another*, XX W. R. 370.]

Apportionment of the value of *patní* land taken for public purposes.

REGULATION I OF 1820.

A REGULATION *for providing that all Sales of certain Táluks made answerable by sale for Arrears of the Zemindár's Rent shall be conducted in the mode prescribed by Regulation VIII,* 1819 *for the Sales therein described.* —PASSED *by the Governor-General in Council on the* 11*th January* 1820.

Preamble.

Whereas it has been omitted to provide in the rules of Regulation VIII, 1819, whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause first, section 8 of that Regulation for the realization of arrears of rent due thereupon by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described; and whereas it is consonant with justice and was intended by the said Regulation, that in every case of the sale of such tenures for arrears of the *zemindár's* rent the sale should be public for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided

for by section 8 of the said Regulation—the following additional rule has accordingly been passed by the Governor-General in Council, to take effect from the date of its promulgation within the several districts of Bengal including Midnapore.

The rules of Regulation VIII, 1819, for periodical sales for the *zemindár's* arrears of rent extended to other sales for rent.

II. *First.* Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause first, section 8, Regulation VIII, 1819 to be sold for arrears of rent due to him on account thereof, and shall under any summary process authorized by the general Regulations have acquired the right of causing such sale to be made, the same shall be conducted after application from the *zemindár* [by the Register or acting Register of the *Zillah* or City Court or in his absence by the person in charge of the office of Judge of the district] in the mode prescribed by Regulation VIII above quoted for periodical sales.

Ten days notice to be given by proclamation.

Second. Ten days notice shall be given before proceeding to sale, by proclamation to be stuck up at the *kachahrí* of the Court and at that of the Collector of the district.

Sections 9, 11, 13, 15, and 17, Regulation VIII, 1819 extended to sales under this Regulation.

Third. The rules of sections 9, 11, 13, 15, and 17, Regulation VIII, 1819 are extended to all sales made after the manner herein provided.

[See note at end of last Regulation, *ante*, p. 513].

REGULATION IV OF 1821.

A REGULATION *for authorizing a Collector of Land Revenue or other officer employed in the management or superintendence of any branch of the territorial revenues to exercise incer tain cases the powers of Magistrate or Joint Magistrate, and for authorizing a Magistrate or Joint Magistrate or Assistant to a Magistrate to exercise in certain cases the powers of a Collector of Land Revenue or of any other officer employed in the management or superintendence of any branch of the territorial revenues; also for explaining the duties of an Assistant to a Collector of Revenue and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of pargánas or other local divisions or employed in the performance of any portion of the functions ordinarily belonging to Collectors of Land Revenue.*—PASSED *by the Governor-General in Council on the* 19*th January* 1821.

Preamble.

Whereas it may be expedient to authorize a Collector of land revenue or other officer employed in the management or superintendence of any branch of the territorial revenue to exercise in certain cases the whole or any portion of the powers at present exercised respectively by a Magistrate or Joint Magistrate,

or to vest the powers of a Collector of revenue or any portion thereof in the hands of a Magistrate or Joint Magistrate or of an Assistant to a Magistrate; and whereas it is expedient to explain the duties which may be performed by the Assistants to the Collectors of revenue and to define the duties and powers vested in Assistant Collectors or other Officers when appointed to the charge of the revenues of *parganás* or other local divisions or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land revenue—the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

Magistrates, &c. employed in the collection of the public revenue to be guided by the orders of the Boards of Revenue and Commissioners, and by the rules and Regulations of Government.

IV. *First.* If a person holding the office of Magistrate, Joint Magistrate or of Assistant to a Magistrate shall be employed in the collection of the public revenue, he shall be guided in the execution of his duty as Collector by the orders of the Board of Revenue or the Board of Commissioners, and by the rules and Regulations that have been or may be enacted for the collection of the public revenue.

Collectors or other Revenue Officers employed as Magistrates, to be guided by the Regulations and by the orders of the superior Courts.

Second. If a person holding the office of Collector of revenue or otherwise employed in the management or superintendence of any branch of the territorial revenue shall be appointed to perform the duties of Magistrate or Joint Magistrate, he shall be guided in the execution of those duties by the Regulations which have been or may be enacted for the guidance of those officers respectively, and by the orders of the superior Courts of Criminal Judicature in all matters in which a controlling or superintending power is vested in those Courts.

Magistrates, &c. employed in the collection of revenue, and revenue officers exercising the powers of a Magistrate or Joint Magistrate, to preserve the records of their respective offices separate and distinct.

V. Every Magistrate or Joint Magistrate or Assistant to a Magistrate who may be employed in the collection of the revenue, and every Collector or other officer employed in the management or collection of the territorial revenues, who may be authorized to exercise the powers of a Magistrate or Joint Magistrate under the provisions of this Regulation, shall be careful to preserve the records of their judicial and revenue offices separate and distinct from each other.

Such of the rules in force as declare Collectors amenable to

VI. *First.* Such parts of the existing Regulations, as declare the Collectors of revenue to be amenable to the *Zillah* Courts for any acts done by them in their official capacity in opposition to the Regulations, shall be held applicable

Zillah Courts for acts done in opposition to the Regulations applicable to Magistrates employed in the collection of revenue.

to any Magistrate or Joint Magistrate or Assistant to a Magistrate, who may be employed in the collection of the public revenue.

In the institution of a suit in a *Zillah* Court, a Magistrate employed in the collection of revenue, not being himself in the charge of the office of Judge, shall proceed according to the Regulations enacted for the guidance of Collectors.

VII. In the institution of suits for the recovery of the public revenue or in any case, in which the institution of a suit by the Collector in the *Zillah* Courts is authorized or directed by the Regulations, a Magistrate or Joint Magistrate or Assistant to a Magistrate employed in the collection of the revenue not being himself in charge of the office of Judge of a *Zillah* Court shall proceed according to the Regulations already in force for the guidance of the Collectors under similar circumstances.

Governor-General in Council competent to cause such alterations in the limits of the several Collectorships, and in the number of officers employed as Collectors, as may from time to time appear expedient.

VIII. *First.* It is hereby declared and enacted that it is and shall be lawful for the Governor-General in Council to cause such alterations to be made in the limits of the several Collectorships and in the number of the officers employed as Collectors of land revenue as may from time to time appear expedient, as well as to vest such officers being Covenanted Servants of the Honorable Company with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land revenue in such *mahál* or *maháls* belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner and subject to the same conditions and liabilities as attach to Collectors of land revenue in regard to such duties.

Board of Revenue and Commissioners empowered to depute officers subordinate to them to exercise the powers of Collectors within such local limits as they may judge expedient. Proviso, requiring a report of their having done so.

Second. It shall also be competent to the Board of Revenue or other authority exercising the powers of that Board to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land revenue within such local limits as they may judge expedient; provided however that in all such cases the Board or other authority aforesaid shall, on the day on which they may depute any officer as aforesaid or as soon after as practicable, report their having done so for the information and orders of the Governor-General in Council.

Collectors authorized with the sanc-

Third. The Collectors of revenue are hereby authorized, with the sanction of the Board of Revenue, to delegate to their Assistants any part of their

prescribed duties, which from the extent of their general business or other cause they may be unable to give due attention to themselves; provided always that, in the event of a Collector deputing his Assistant to make local inquiries or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue to which he may be subordinate.

tion of the Boards to delegate to their Assistants any part of their duties to which they may be unable to give due attention.

Proviso, in the event of a Collector deputing his Assistant.

Fifth. Assistants or other officers exercising the powers of Collectors of revenue or any portion thereof under the provisions of this Regulation shall be guided in every respect by the Regulations which have been or may be enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them; and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity in opposition to the Regulations, in the same manner and under the same rules as the Collectors of Revenue.

Assistants or other officers exercising the powers of Collectors to be guided by the Regulations, and to be responsible for the performance of their duties, and amenable to the Civil Courts.

[See *ante*, pp. 153, 155.]

REGULATION III OF 1822.

A REGULATION *for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the Land Revenue in the territories belonging to the Presidency of Fort William.*—PASSED *by the Governor-General in Council on the* 19*th March* 1822.

Whereas the superintendence of the Delhi territory has recently been vested in the Board of Commissioners for the Ceded and Conquered Provinces, and for this and other causes it has become necessary to relieve the said Board from the charge of a portion of the districts now under their control; and whereas it is also desirable to modify the constitution and alter the jurisdiction of the several Boards entrusted with the management of the land revenue—the following rules have been enacted, to be in force from the date of their promulgation.

Preamble.

IV. *First.* The said Boards shall each of them consist of such number of Members as the Governor-General in Council may from time to time appoint.

Power reserved to the Governor-General in Council in appointing members to the Boards.

V. *First.* It shall be competent to the Governor-General in Council by an order in council to authorize a single Member of any of the said Boards to exercise, either generally or locally, all the duties, powers and authority which

Governor-General in Council declared competent to

authorize, when necessary, a single Member of any Board to exercise all the duties vested in the Board collectively. And to authorize the several Members separately to exercise at the same time such part of the duties as may appear requisite for the greater dispatch of business or other cause. Proviso—no single Member to reverse or alter a Collector's order, except authorized by Government, nor to reverse or alter a decree or order passed by any other Member. No settlements whether temporary or perpetual to be binding, unless confirmed by the Governor-General in Council.

are vested in the Board collectively, whenever circumstances may render such an arrangement desirable. It shall further be competent to the Governor-General in Council similarly to authorize the several Members of the said Board separately to exercise at the same time and within the same limits such part of the said duties, powers and authority as it may from time to time be judged proper to assign to each respectively, whenever for the greater dispatch of business or other cause it may appear advisable to divide the business of the Board or to assign any special duty to any Member separately; provided however that, if a Member exercising singly as above the duties, powers and authority of the Board or any part thereof shall in any case be of opinion that any decision or order of a Collector ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless otherwise specially directed and authorized by Government; provided further that it shall not be competent to a single Member of a Board to reverse or alter a decree or order passed by any other Member; provided also that no settlement of the land revenue, whether in perpetuity or for a term of years, shall be or be held final and binding upon Government, unless the same shall have been formally confirmed by the Governor-General in Council.

Rule defining the course of proceeding in cases where a difference of opinion may arise.

Second. Whenever two Members of a Board shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed and the case shall be referred to a third Member, permanent or provisional, in such mode as may from time to time be directed by Government, and shall be determined according to the majority of voices.

A single Member, when vested with separate authority, declared competent to proceed in the same mode as the Board collectively are authorized in

Third. In regard to the appointment, removal or punishment of the native officers of Collectors of land revenue or other functionaries subordinate to the Boards, a single Member vested as above with authority separately to exercise the powers of the Board or any part thereof shall within the limits of his authority be competent to proceed in the same manner as the Board collectively are authorized to proceed; provided that in any such case, if a member of the Board acting singly shall differ in opinion from a Collector or other functionary

immediately subordinate to them, he shall not, unless otherwise specially authorized by Government, pass any final order without the concurrence of one or more Members of the Board.

regard to the appointment, removal or punishment of Collector's native officers.

Fourth. No final orders regarding the appointment, removal or punishment of officers belonging or immediately subordinate to the Board shall (unless otherwise specially directed by the Governor-General in Council) be issued without the concurrent judgment of two or more Members.

Proviso in cases where a difference of opinion may arise.

Two Members necessary to appoint, remove or punish officers of the Board, unless authorized by Government.

Fifth. Single Members exercising separate authority as above shall be competent to suspend any officer under their authority in like manner as the Board collectively may do, but all orders regarding the suspension of any such officer passed by a single Member, unless in confirmation of an order or recommendation of a Collector or other intermediate authority or unless specially authorized by the Governor-General in Council, shall be reported without loss of time to some other Member and shall be liable to be set aside by the decision of a majority of the Board.

Single Members, when vested with separate authority, declared competent to suspend any officer.

But the order for such suspension, unless in special cases, to be reported to some other Member of the Board, who, if a majority agree, may set it aside.

Sixth. The Boards are authorized to review, rescind, alter or confirm any order and decision passed by them collectively or by any Member exercising as above separate authority, if an application to that effect be made to them by any party interested in the case within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if from the documents exhibited the case shall appear to merit further investigation. But no order or decision passed by a single Member exercising separate authority shall be reversed, altered or staid excepting on the concurrent judgment of two or more Members.

Board, when applied to, may revise, rescind and alter their decisions, provided that such applications be made within three months, or sufficient cause shown for delay.

Orders or decisions passed by a single Member when vested with separate authority, not to be reversed or altered unless two or more Members concur.

Seventh. To provide for cases wherein the Members of the Board shall not agree in opinion as to the decision or order to be passed in any case and wherein the voices on each side may be equal, it shall be competent to the Governor-

Provision in cases when the Members of the Board differ in opinion and

the voices on each side are equal.

General in Council to appoint one or more temporary or provisional Members who shall in regard to the investigation and determination of the questions so in dispute have and exercise the same powers and authority as if they ordinarily belonged to the Board; and, if a difference of opinion as aforesaid shall arise between two Members of the Board holding joint sittings at any place where a temporary or provisional Member may be stationed, the other permanent Member or Members of the Board being absent, it shall and may be lawful for them without reference to such absent Member to submit the question in dispute to the provisional Member and to issue orders in conformity with the opinion which he may support.

REGULATION VII OF 1822.

A REGULATION *for declaring the principles according to which the Settlement of the Land Revenue in the Ceded and Conquered Provinces including Cuttack, Puttaspore and its Dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending Settlements; for continuing with certain exceptions the existing leases within the said Provinces for a further term of five years; for defining, settling and recording the Rights and Obligations of various classes and persons possessing an interest in the land or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.*—PASSED *by the Governor-General in Council on the 8th August* 1822.

Preamble.

Whereas the existing settlement of the land revenue in the Ceded Provinces will expire with the present Fussily year and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated and the manner in which future settlements and revisions of settlements are to be conducted;—and whereas, a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the revenue officers should chiefly be directed not to any general and extensive enhancement of the *jamá*, but to the objects of equalizing the public burthens and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land or the produce of land or paying or receiv-

ing any cesses, contributions or perquisities to or from any persons resident in or owning, occupying or holding parcel of any village or *mahál*;—and whereas with these views and intentions the Governor-General in Council has considered it to be expedient and proper (with the exception hereinafter specified) to continue the existing assessment in all cases in which the settlement has been formed with *zemindárs* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mahál* for which they may have engaged, until a new settlement can be made, combining with the revision of the Government *jamá* and the deliberate investigation of the facts (by the determination of which its amount must be regulated) a full inquiry into and a careful settlement of the rights and interests of all classes connected with the land;—and whereas the same principles are applicable to the district of Cuttack, the *pargána* of Puttaspore and its dependencies, of which the settlement will expire with the present Amli year;—and whereas it has appeared expedient to make special provision for the early settlement of the districts of Goruckpore, the *chakla* of Azimgurh, the *pargána* of Puttaspore and its dependencies;—and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces and of the Province of Bundlekund pending the continuance of the existing leases;—and whereas it is the desire of Government that the proceedings held and the records formed by the Collectors, when making settlements or otherwise specially employed in conducting inquiries of the above nature, should be such, as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered or it shall be shown by the result of a full investigation in a regular suit that the proceeding or record of the Collector was erroneous or incomplete;—and whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries and the adjustment of the differences arising out of or made known by them;—and whereas it further appears advisable that the Revenue Officers should in certain cases be vested with authority judicially to receive, hear, investigate and determine suits, claims and demands of the above description;—and whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the *sadr malguzárs* or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government without being subject to the payment of any portion of it to the public treasury, such as *jagírdars* and other owners or managers of *lakhiráj* lands, and it is particularly necessary in the case of estates held in *pattidárí* or *bhaiyachára* tenure to make further provision for protecting the sharers who

have not been admitted to engagements with Government against the encroachments of the *sadr malguzár*, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged—

For the purposes and objects above specified the following rules have been enacted to be in force from the date of their promulgation throughout the Ceded and Conquered Provinces, in the district of Cuttack, the *pargána* of Puttaspore and its dependencies.

General rule relative to *zemindárs* holding on after the expiration of their leases.

II. *Sixth.* If any *zemindár* or other *malguzár* as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any *mahál*, shall be allowed by the Revenue Authorities to continue in the management of such *mahál* after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such *mahál* or the settlement, assessment, or collection of the rents of such *mahál*, in or on account of any year subsequent to the term of such engagement, such *zemindár* or other *malguzár* aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon: provided further that it shall be competent for Collectors or other officers exercising the powers of Collectors, with the sanction of the Board or Commissioner to whom they may be subordinate, at any time not being more than six months previous to the expiration of a settlement to call upon the *zemindárs* or other *malguzárs* as aforesaid to declare whether or not they are willing to continue their engagements for the ensuing year; and if such *zemindárs* or other *malguzárs* shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment and so on from year to year as aforesaid. *Zemindárs* or other *malguzárs*, who may be allowed to hold on from year to year, shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector shall notify his intention to revise the assessments on or before the commencement of such year, unless where otherwise specially provided.

Collectors authorized, with the sanction of the Board, to require *zemindárs* to state whether they are willing to continue their engagements.

Zemindars allowed to hold on shall not be chargeable with additional revenue excepting in certain cases.

[The provisions contained in this clause and in the thirty-three following sections of this Regulation were by s. 2, Reg. IX of 1825 extended to all lands (including jagírs, mukarrarís, and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a Permanent Settlement had been concluded in the manner prescribed by Reg. VIII of 1793 and Regs. II and XXII of 1795; also to all estates held *khas*, for the period during which they may be so managed; also to the Sundarbans, to the hill lands of Bhaugulpore and other extensive forests and wastes not included within the limits of pargánas, mauzáhs or other revenue divisions specified at the time of settlement as belonging to the estates then assessed; as well as to estates bordering on such forests or wastes.]

III. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the Governor-General in Council may direct. A preference shall be given to the *zemindárs* or other persons possessing a permanent property in the *mahál*s, if willing to engage for the payment of the public revenue on reasonable terms; provided also that in cases wherein such *mahál*s may be let in farm the term of the lease granted to the farmers shall not exceed twelve years. The above rules shall likewise be applicable to estates now held *khas*. So in any cases, wherein the *zemindárs* and other proprietors may refuse to continue their existing engagements or to enter into new engagements on equitable terms, it shall be competent to the Revenue Authorities to let the lands in farm for such period not exceeding twelve years, as the Governor-General in Council shall appoint, or to assume the direct management of them and to retain them under *khas* management during the period aforesaid or such shorter period as may be judged proper. Provided further that, if in any case it shall appear to the Revenue Authorities that the continuance or admission of any *rájá*, *zemindár*, *tálukdár* or other person, who may have engaged or may claim to engage for any *mahál* or *mahál*s, in or to the management of such *mahál* or *mahál*s would endanger the public tranquillity or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the Governor-General in Council by an order in Council to cause such *mahál* or *mahál*s to be held *khas* or let in farm for such term as may appear expedient and proper, not exceeding the period above specified.

Settlement how to be made for farmed estates.

For estates held *khas*.

For estates of recusant *zemindárs*.

Cases in which *zemindárs* may be excluded from, or deprived of, the management of their estates.

Sec h 536

[See note to cl. 3, s. 9 below.]

IV. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *sadr malguzárs* with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary with a view to the punctual realization of the public dues to vest the *sadr malguzár* by special Regulation with authority of distraint or other powers of coercion over the under-tenants. On the contrary it is the anxious desire of Government and the bounden duty of its officers to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess. In pursuance of this principle it is hereby declared and enacted that nothing in the above provisions for extending the existing leases or in the stipulations of the existing settlements do or shall

The admission of particular parties to engage for the payment of the public revenue, shall not bar the revenue officers from interfering to adjust the rights of other persons or classes.

be construed to bar the revenue officers duly empowered in that behalf from interfering to adjust the respective rights of the *sadr malguzárs* and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf: but if such decision or order shall operate materially to reduce the profits derived by any *zemindár* or *malguzár* from the *mahál* owned or managed by him, it shall be competent for such *zemindár* or *malguzár* to relinquish his engagements, and the Revenue Officers shall in such case proceed to make a settlement of the *mahal de novo*.

But if the profits of any *zemindár* be materially reduced by any order or decision of such officer, he shall be at liberty to relinquish his engagements.

[In addition to what has been already said (*ante*, p. 46—56) about the different rights in land which exist in the North-Western Provinces, the following paragraphs (49—51) from the *Directions to Setttement Officers* will be useful:—

Estates possessed in absolute proprietary right by a single owner require no particular notice. The most common instances of such tenures are, where the right has been acquired by purchase, and especially where this has been effected at a public sale for arrears of revenue. In cases of the nature here contemplated the *malguzár* is the sole possessor of the heritable and transferable right in the *mahál*, and may be either himself the cultivator of the whole, or may collect the rents from cultivators, who have or have not rights of occupancy, heritable but not transferable.

When several persons possess heritable and transferable properties in the same *mahál* or estate, these properties may be of the same kind or of different kinds. In the former[1] the profits of the land are divided amongst several sharers or co-parceners according to a fixed law or custom, and these are commonly called co-parcenary tenures. In the latter[2] the profits are divided between different proprietors and classes of proprietors, the one superior, and the other inferior, and these are commonly called *tálukdári* tenures.

Talukdári Tenures.

The co-parcenary tenures are the most common, and embrace all cases where the estates are held by those singularly constituted Village Communities (see *ante*, p. 18) which have been so often described, and have been not unaptly said to form "little republics" within themselves.[3] It is impossible minutely to detail every variety of the tenure, but it will be useful by fixing on a few of the more prominent features to assist the Settlement Officer in his attempts to understand the constitution of those which may come under his notice. It may also be remarked that the names given to the several classes of tenures must be in a great measure arbitrary.

The most obvious distinction is that which rests on the degree of separation between the several properties constituting the *mahál*. In this respect co-parcenary tenures are *zemindári*, *pattidári*, and imperfect *pattidári*.

Zemindári tenures are those in which the whole land is held and managed in common. The rents paid by the cultivators, whether those cultivators be the proprietors themselves or not, are thrown into a common stock with all other profits from the estate, and after deduction of expenses the balance is divided amongst the proprietors according to a fixed law.

Zemindári Tenures.

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[1] See cl. 3, s. 10, Reg. VII of 1822.

[2] See cl. 1, s. 10, Reg. VII of 1822.

[3] See Minute by Sir C. Metcalfe. Report of Select Committee of House of Commons, 1832, Vol. III, Appen. 84, p. 331.

Pattídárí[1] tenures are those in which the lands are divided and held in severalty by the different proprietors, each person managing his own lands and paying his fixed share of the Government revenue, the whole being jointly responsible in the event of any one sharer being unable to fulfil his engagements. Perfect Pattídárí Tenures.

Imperfect *pattídárí* tenures are those in which part of the land is held in common and part in severalty, the profits from the land held in common being first appropriated to payment of the Government revenue and the village expenses, and the overplus being distributed, or the deficiency made up, according to a rate (or *bach,h*) on the several holdings. In such cases the proprietors are said to pay their revenue by *dhar-bach,h*, or *bíghádam*. Imperfect Pattídárí Tenures.

These distinctions are not in their nature permanent. A *mahál* may pass by the agreement of the sharers from one class to another, the joint responsibility remaining inviolate. It is very rarely that a *pattídárí mahál* becomes *zemindárí*, but it is a most common occurrence for a *zemindárí* or an imperfect *pattídárí*, to become a *pattídárí mahál*. In such cases a partition of the common land takes place, but no division of the *mahál*. In *zemindárí mahále* the partition would be according to the shares which before regulated the division of the profits, but in imperfect *pattídárí mahále* a new distribution of the profits arising out of the estate frequently takes place according to a different rule from that which regulated it before. Changes in tenures.

This leads to another ground of distinction, *viz.* the rule according to which the profits in a coparcenary estate are distributed, *i.e.* the rule which fixes the extent of interest possessed by each sharer in the estate. Right arising from transfers by sale, gift, &c. depends on the terms in which they were effected, but when the right does not arise from special contract the rule for the distribution of profits is founded on law or on custom. It is founded on law, when it results from the operation of the law of inheritance, each proprietor claiming and possessing a certain share according to his right derived from a common ancestor under the code of law applicable to his religion or his country or his caste. It is founded on custom, when some local usage has superseded or obliterated legal ancestral right and established a new and arbitrary rule. This custom appears to have often taken its rise from the position of the cultivating communities under the native government. Cultivators were then scarce, and each proprietor was bound to exert himself to the utmost to provide his family with the means of support and to add to the resources of the community. Each person cultivated therefore as much as he could, and contributed to the charges on the village in proportion to the extent of his cultivation. In time remembrance of ancestral right was lost, and each man's holding in the village became the sole measure of his right. It has already been explained that the nature as well as the extent of the interest which each proprietor possesses is ordinarily expressed in terms, having reference to his payment of the Government revenue. If he possess by law a certain fractional share, he is said to hold a number of annas or *bishwas*, the whole estate being considered 1 rupee or 1 *bígha*. If his right be to a certain quantity of land for which he pays revenue according to a fixed custom, he is said to pay by *bach,h* on so many *bíghás*.] Rule of Distribution of Profits.

V. *First.* The provisions contained in the existing Regulations regarding the allowance to be made to *zemindárs* and other *malguzárs* who may be excluded from the management of *mahále* owned or claimed by them, whether as *malikána* or *nankar*, are hereby rescinded. Existing provisions relative to *malikána* and *nankár* rescinded.

[See s. 11, Reg. IX of 1833.]

[1] See s. 2, Act I of 1841.

Malikána to be allowed to proprietors of estates farmed or held *khas*. How to be apportioned among several proprietors. Not to be less than five, nor (without special sanction of Government), more than ten per cent. on the Government *jamá*. Subject to what deduction. No *malikána* allowance under this rule to be granted to *zemindárs*, who may continue to occupy their lands under the farmer or Government officer. Nor without special sanction to *zemindárs* making collections from the *raiyats*. Provision for the case of *malguzárs* not proprietors or only part proprietors of the *maháls* for which they may have been under engagements.

Second. The proprietors of estates let in farm or held *khas* shall be entitled to receive an allowance of *malikána* at such rate as the Board or other authority exercising the powers of that Board may determine, anything in the existing Regulations notwithstanding—the said *malikána* to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively; provided also that the *malikána* allowance granted to the proprietor or proprietors of any *mahál* shall not in any case be less than five per cent. on the net amount realized by Government from the lands, nor shall it exceed ten per cent. on that amount without the special sanction of the Governor-General in Council;—provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the *nankar* formerly granted to them by the native Governments or otherwise in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the *malikána* to which they are by this section declared to be entitled;—provided also that this rule shall not apply to such *zemindárs* as may continue in the occupancy of their tenures whilst the *mahál* in which they are included is held *khas* or farmed or of any part of them, that is to say, *zemindárs* who may cultivate or lease their lands and pay the revenue to the farmer or Government officer, nor without the special sanction of Government to any *malguzár*, *zemindár* or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the *raiyats* of the lands farmed or held *khas*;—provided also that *malguzárs* not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as *zemindárs*, *tálukdárs* or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the *jamá* of the estate, but shall receive such allowance in lieu of their title of management as it may appear to Government to be equitable to assign in addition to the *malikána* to which they may be entitled on account of any lands held by them in actual property and of which they may not retain the occupancy; and no *malikána* shall be granted to any *sadr malguzár* on account of lands, the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of justice or to the satisfaction of the Board: but in such cases such provision will be made for the intermediate support of the party, as the Governor-General in Council may on the recommendation of the Board see fit to direct.

Zemindárs may be called upon to state the *jamá* for which they

Third. Provided also that, if any *zemindár* or *sadr malguzár* shall have been called upon by a Collector or other officer exercising the powers of a Collector to state the highest amount of *jamá* for the payment of which he may be

willing to engage, and shall have stated the same accordingly, the sum so stated by such *zemindár* or *sadr malguzár* and not the *jamá* ultimately realized by Government shall form the basis on which his *malikána* allowance shall be adjusted; and in such case it shall and may be lawful for the Revenue Authorities to limit the said allowance to five per cent. on the said sum or to a portion thereof according to the extent of the proprietary interest possessed by the said *zemindár* or *sadr malguzár;* provided also that if a *zemindár* or *sadr malguzár* when so called upon shall fail to specify or tender any sum as aforesaid, then and in that case the net revenue, derived by Government from the *mahál* on account of the year preceding that in which the Collector or other officer aforesaid may make the said requisition, shall be taken as the sum by which the amount of *malikána* (not being less than five, nor more than ten per cent. on the same) shall be adjusted.

may be willing to engage, and their *malikána* allowance may be adjusted according to the amount tendered by them.

Or by the net revenue of the preceding year, if no tender be made.

[*Malikána* is a distinct proprietary right and constitutes *an interest in land.* If there has been no enjoyment of it for a period of twelve years, the right to sue for money receivable under it is barred by cl. 12, s. 1, Act XIV of 1859—*Hiranand Sahú* v. *Mussamat Wazíran and others*, V R. C. & C. R. Civ. Rul. 60: IX W. R. Civ. Rul. 102 [in review of VI W. R. Civ. Rul. 151, (where it was first laid down that six years was the period of limitation applicable), and overruling VII W. R. Civ. Rul. 336, and III R. C. & C. R. Civ. Rul. 229]:—*Bhuli Singh and others* v. *Mussamat Nimn Behu*, III B. L. R. App. 102, and on appeal, IV B. L. R. A. C. 29 (A doubt was here intimated whether under s. 46, Reg. VIII of 1793, a suit would lie at all): *Gobind Chandra Rai Chaudhrí* v. *Ram Chandra Chaudhrí*, XIX W. R. 94. Twelve years is the period of limitation now prescribed by art. 132, sched. II, Act IX of 1871. As to *malikána*, see also *ante*, p. 51, note.]

VI. *First.* In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors, with the sanction of the Board, to enter at any time in the course thereof on a revision of the settlement, notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands and the amount of *jamá* properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges and properties of the agricultural community, and to determine the same with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to reassessment.

Revenue officers may revise settlements of estates, of which the existing leases shall be extended under section 2, during the continuance of such extended lease.

Second. The said revision of the settlement shall be made village by village, and *mahál* by *mahál*, and such number of *mahále* shall be revised in each year as the Board under the orders of the Governor-General in Council may direct.

Revision of settlement how to be made.

Revision of settlement shall not operate to alter the amount of the *jamá* payable on account of lands included in existing engagements. But lands withheld from the knowledge of the revenue officers at past settlements may be separately assessed. Revenue Officers revising settlements to exercise the same authority in adjusting the relative rights of individuals as they may exercise when assessing a *mahál* open to reassessment.

Third. Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation, in so far as such engagements relate to the amount of *jamá* demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and, if on the revision of the settlement of any *mahál* it shall be found that there has been any material error or concealment of lands belonging to such *mahál*, the Collector shall be authorized subject to the orders of the Board separately to assess the lands so withheld from the knowledge of the Revenue Authorities in the same manner and with the same powers as he would assess an unsettled *mahál:* provided also that nothing in this or the preceding sections shall be construed to prevent the Revenue Officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes or persons connected with any *mahál* during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce when adjusting the assessment of an unsettled *mahál.*

Collectors in the Conquered Provinces to revise settlements during the continuance of the existing leases.

Fourth. It shall in like manner be competent to the Collectors in the Conquered Provinces and in the Province of Bundlekund to enter on a revision of the settlement under the provisions contained in the preceding clauses of this section during the continuance of the existing leases.

When revision of settlement completed, prolonged leases to be granted in the Ceded Provinces and in Cuttack, Puttaspore and its dependencies, for years subsequent to 1234.

VII. *First.* When a Collector in the Ceded Provinces or in the Province of Cuttack shall have completed the revision of the settlement of any *maháls* under the rules contained in the preceding section, it shall and may be lawful for him subject to the orders of the Board and of Government to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234 Fussily or Umli, as the Governor-General in Council may direct.

Jamá for year subsequent to 1234, how to be adjusted.

Second. The assessment to be demanded on account of the years subsequent to the year 1234 Fussily, to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made, unless under special circumstances justifying a prospective enhancement of the Government demand: provided also that the amount of such assessment shall not be raised above that of the present *jamá,* unless it shall clearly appear that the net profits to be derived from the land by the *zemindárs* and others who may be entitled to share in the profits arising out of the limitation of the Government demand will

exceed one-fifth of that amount; and in cases wherein any increase may be demanded the assessment shall be so regulated as to leave the *zemindárs* and others aforesaid a net profit of twenty per cent. on the amount of the *jamá* payable by or through them respectively. No abatement on the existing *jamá* will be allowed unless ón the clearest grounds of necessity.

[Section 2, Reg. IX of 1833 repeals so much of this Regulation as prescribes or has been understood to prescribe that the revenue demandable from any estate shall be calculated on an ascertainment of the quantity and value of the actual produce, or on a comparison between the cost of production and the value of produce.]

Pattas granted on revised settlement only to cover land specified.

Third. The *pattas* granted on such revised settlements shall be held only to secure the *malguzárs* from further demand during the term of their respective leases on account of the lands specified in it, or described in the settlement *rubakari* of the Collector, with such allowance for error as may be distinctly declared at the time of settlement. *Zemindárs* and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the *rukba* of the *maháls* for which they may engage.

Cases wherein the final settlement of estates shall after revision be postponed until the expiration of the current leases.

Rules applicable to such cases.

Fifth. If any *zemindár* or other *sadr malguzár*, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue Authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any *maháls* until the expiration of the current leases, it shall be competent to them to do so, and in such case the several rules contained in section 3 of this Regulation relative to estates, of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such *maháls*.

Waste lands may be disposed of by Government, under what conditions.

VIII. Where the waste land belonging to or adjoining any *mahál* is very extensive, so as considerably to exceed the quantity required for pasturage or otherwise usefully appropriated, it shall be competent to the Revenue Officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity or for such periods as the Governor-General in Council shall determine, and to assign to the *zemindárs* or others who may establish a right of property in the lands so granted an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste lands so granted or such óther perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Detailed investigations to be prose-

IX. *First.* It shall be the duty of Collectors and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of

cuted by Collectors and other officers making or revising settlements.

the land revenue, to unite with the adjustment of the assessment and the investigation of the extent and produce of the lands the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community. For this purpose their proceedings shall embrace the formation of

Proceedings to embrace what particulars.

as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees. This record shall in *pattídárí*, *bhaiyachára* villages or the like include an accurate register of all the co-parceners, not merely the heads of divisions, such as the *pattís*, *thokes* or *behris*, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenency where any such exist, and for determining the share of the Government *jamá* and of the village expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate *pattídárs* and *behridárs* collect from the cultivators. A record shall likewise be formed of the rates per *bíghá* of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the *sadr malguzár* or other manager and the cultivator in lands cultivated under *kankut*, *bataí* or similar engagements, with a distinct specification of all cesses or extra collections made by the *malguzár* or village

How far to be binding on the Courts of Judicature.

manager or others. The names of all the village *patwárís* and village watchmen shall also be registered, with a statement of the amount and nature of the allowances assigned to them. And all *lakhiráj* tenures shall be carefully recorded with a specification of the nature of the tenure. The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the *zemindárs* shall hereafter be regulated by the

What cesses or collections to be held illegal.

rates of rent and modes of payment avowed and ascertained at the settlement and recorded in the Collector's proceedings, until distinctly altered by mutual agreement or after full investigation in a regular suit; and all cesses or collections not avowed and sanctioned nor taken into account in fixing the Government *jamá*

shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

[See *ante*, pp. 44, 60, and s. 9, Reg. IX of 1825. See also s. 3, Reg. IX of 1833 which repeals so much of this Regulation as prescribes or has been understood to prescribe that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand. Government is now to determine the order in which these matters are to be disposed of.

Plaintiff sued for rent on the basis of a *jamábandí* made by a Deputy Collector at the time of settlement of the estate then held *khas*, but subsequently sold to plaintiff. Defendant objected that he was not liable to pay the higher rate of rent demanded of him, inasmuch as he had not been served with notice of enhancement under s. 13, Act X of 1859. It was observed that plaintiff being the assignee of the rights of the Government had the same rights as the Government had possessed, that the rights of the Government in the *khas mahál* were exactly the same as those of any other *zemindár*, that, as a *zemindár* by making a *jamábandí* could not relieve himself of the necessity of serving a notice, so Government could not be relieved of such necessity by making a *jamábandí* at the time of settlement; that s. 9, Reg. VII of 1822 was a *law for settlements not for collection of rents*, and specified how remedies were to be sought against the *acts of Settlement Officers* as such and did not provide that private *zemindárs* seeking enhanced rents were to have them without giving notice to enhance; that therefore defendant was not estopped by his not having sought an alteration of the *jamábandí* or rent-roll under the provisions of that law—*The Nawab Nazim of Bengal* v. *Ram Lal Ghose alias Jagobandú Ghose*, VI W. R. Act X Rul. 5.

Plaintiff sued to enforce his right to a *bazár* site and to obtain possession thereof. It was clear that such right and possession were only another mode of expressing the right to collect certain cesses which were not denied to be illegal and unauthorized under the provisions of cl. 1, s. 9, Reg. VII of 1822 as not having been awarded and sanctioned at the settlement or taken into account in fixing the Government *jamá*. The High Court dismissed the suit as brought for an illegal object—*Kheirat Alí*, &c. v. *Mahomed Yasin Khan*, &c. I N-W-P. Rep. Civ. Ap. 207—see also *Bhinuk Chaudhrí* v. *The Collector of Jaunpore*, II N-W-P. Rep. Civ. Ap. 271: *Hashmat Alí* v. *Sita Ram*, III N-W-P. Rep. Civ. Ap. 336: *Sonnum Súkul and others* v. *Sheikh Elahi Baksh and others*, VII W. R. Civ. Rul. 453.]

Collectors and other officers making settlement may grant *pattas* to *mufassal zemindárs* and *raiyats*.

Second. Provided also that it shall be competent to Collectors and other officers as aforesaid (subject to the orders of the Board) to grant *pattas* to the several *mufassal zemindárs* and *raiyats* or other owners or occupants of land for the land owned or occupied by them, specifying the amount to be paid by them and all the conditions attaching to their tenure, and a register of all *pattas* so granted shall form a part of the *rubakari* of settlement.

In what case engagements for the revenue may be taken as heretofore, without a detailed *mufassal* settlement.

Third. Provided however that if from the number of estates of which the leases may at once expire in any district, or from any other special cause it shall be found necessary for the security of the Government revenue to take engagements from any *zemindár*, *malguzár* or farmer without completing the detailed inquiries above directed, it shall be competent to the Boards of Revenue or other authority exercising the powers of such a Board to cause engagements for the

Such engagements not to be granted for a term exceeding five years, nor to bar an intermediate revision.

revenue to be taken in the manner heretofore in use, reporting the circumstance to the Governor-General in Council: but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of *mahâls*, of which the existing leases have been extended under the provisions of section 2 of this Regulation, shall be equally applicable to estates for which such engagements shall be taken.

In cases where several persons holding interests of different kinds may have separate properties in the same land, Government may determine which of such parties shall be admitted to engage for the public revenue. Provision to be made for the remaining parties.

X. *First.* Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the Governor-General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties. It is further hereby declared and enacted that it is and shall be competent to the Governor-General in Council in confirming the settlement of any *mahâl* in perpetuity or for a term of years to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such *mahal* or in the rent or produce of such lands or *mahal.*

[See Note to s. 4, *ante* p. 532.]

Government will also determine the manner and proportion in which the net rent or profit arising out of the limitation of the public demand shall be distributed among the different parties possessing properties in lands settled in perpetuity or for a term of years. *Mufussal* settlements to be made in cases wherein the title of an intermediate manager between Government and the proprietors or hereditary occupants of the soil may be maintained.

Second. In cases wherein any land appertaining to a *mahâl* hitherto recognized as the *taluka, zemindárí* or the like of one or more *sadr malguzárs* may be owned or occupied by other persons holding under the *sadr malguzár* and possessing an heritable and transferable property therein, or a hereditary right of occupancy subject to the payment of a fixed rent or of a rent determinable by a fixed principle, if the title of the said *sadr malguzár* to engage for the revenue be upheld; and generally in cases wherein the tenure of an intermediate *malguzár* or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the *zemindár, tálukdár* or other hereditary intermediate *malguzár*, or the *mahâl* be farmed or held *khas*, it shall be competent to the Collector or other officer who may be employed in adjusting the *jamá* to be assessed on such *mahâl*, with the sanction of the Board previously obtained and subject to the orders and direction of that authority, to make a *mufussal* settlement with each of the proprietors or occupants aforesaid for the land possessed by him and to grant such proprietors or occupants *pattas* defining the condition on which they are to hold their land, whether subordinate to the *sadr malguzár* or to the farmer or officer of Government employed in the *khas* management; and in all such cases, if engagements for the Government revenue of the *mahâl* be taken from the intermediate hereditary *malguzár*, the particulars of the *mufussal*

settlement when approved by the Board shall be endorsed on the *patta* to be granted to the *sadr malguzár*, or shall be so incorporated with the engagement taken from him as to form part of the same.

Third. In cases in which two or more persons may possess a joint property in any village *mahál* or parcel of land, or in the rent or produce of any village, *mahál* or land, or in any part of such village, *mahál*, land, rent or produce—the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise—as well as in cases wherein such property in any *mahál*, village, land, produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector, subject to the orders and direction of the Board and of the Governor-General in Council, either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the *mahál* as *sadr malguzárs*, due advertence being had to the wishes of all the co-parceners and to the past custom of the village or villages comprised in the *mahál*.

Where several persons may hold a common property or properties subject to a common obligation. The revenue officers may make a joint settlement with or in behalf of the parties collectively, or of a majority of them. Or may select one or more to manage the *mahál* as *sádr malguzárs*.

[See *ante*, p. 832.]

Fourth. When it shall be determined to make a joint settlement for any village, *mahál* or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer making the settlement shall give notice of his intention by a written proclamation to be stuck up in some public place within the village, *mahál* or land, and shall require all persons possessing therein a property as aforesaid to attend either in person or by representative duly authorized in the matter within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the *jamá* proposed to be assessed on the village or land.

When a joint settlement is to be made, parties how to be summoned.

Fifth. If any person or persons, when summoned as above, shall refuse, neglect or omit to attend either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend in agreeing or disagreeing to the *jamá*, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue and be liable to sale in the event of any arrear accruing on account of the settlement.

Persons wilfully failing to attend when summoned, to be bound by decision of the majority who may attend, and to be responsible for the revenue agreed to. Unless otherwise specially provided.

Sixth. If any person or persons shall attend and shall object to the *jamá* proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights

In cases in which any of the parceners object to the *jamá* assessed,

the engaging parceners shall be deemed to be farmers of the revenue of the lands belonging to the recusants, if their engagements extend to such lands.

and interests as they would enjoy in the event of the *mahál* being farmed or held *khas;* and, in so far as regards the lands to which such rights and interests attach, the other parceners if their engagements be extended thereto shall be considered farmers of the Government revenue, to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Proprietors cultivating lands of which the revenue may be collected *khas* or farmed, at what rates to pay rent.

Seventh. When any *mahál* or portion of a *mahál* held by a number of cultivating proprietors in *pattídarí* or *bhaiyachára* tenure or the like shall be let in farm or held *khas*, the rent demandable from the proprietors of such *mahál* or portion of *mahál* on account of the land occupied and cultivated by themselves shall be adjusted by the rates payable by *raiyats* or other resident cultivators not having a heritable and transferable property in the soil for lands of a similar description in the same or in the adjoining villages, with a deduction of five per cent. on account of *malikána* or such other rate not being less than five per cent. as Government may determine.

When the settlement of a *mahál* held in common tenancy or subject to common obligation, shall be made with one or more of the parceners selected as manager or *sadr malguzár*, on what terms the other parceners are to hold.

Eighth. When it shall be determined to make a settlement of a *mahál* of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as *sadr malguzár*, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the *sadr malguzárs*, save and except in so far as may be specifically provided. Such parceners shall until regularly separated continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the *sadr malguzár* at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted for vesting the *sadr malguzárs* with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them. The responsibility attaching to the persons selected as *sadr malguzárs* and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed. The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Nature and conditions of the *sadr malguzárs'* tenures to be declared.

Lands separately owned and occupied, though hitherto held as one *mahál*, may be separately

Ninth. Provided further that in all cases wherein different parcels of land belonging to any *mahál* may be separately owned and occupied by different proprietors or by different bodies of proprietors it shall be competent to the Boards of Revenue or other authority exercising the powers of that Board to cause a separate settlement to be made for the land owned and occupied by each

proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it. Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them shall apply to a Collector or other officer making or revising a settlement to have separate possession of their several share or shares in such joint property or to be admitted to separate engagements, it shall be competent to such Collector or other officer, with the sanction of the Board or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Joint properties, or properties subject to a joint obligation, in what cases to be divided.

Tenth. In all cases wherein any proprietors may be excluded from engagements the Collector shall be careful to let it be known, that all persons possessing a property in the *mahál* are entitled to have their names recorded in the *rubakári* of settlement with the amount or rate of the assessment demandable from each.

Proprietors though excluded from engagements may have their names registered.

XI. *First.* The Collector's proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall in every instance be careful to record the precise nature of the authority on which the entries in his books may be made. In conformity with the above principle it shall be competent to the Collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any *mahál* and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of persons found in the *bonâ fide* possession of land or in the receipt of rent under a proprietary title, and in such cases the Collector will hold an official proceeding explaining fully the grounds on which he may act.

Collectors forming such registry to proceed on the basis of actual possession.

["The Settlement Officer could not determine the question raised in this suit. The duty of the Settlement Officer is to record the names of persons whom he finds in possession of rights, or whom he finds to have been within a certain period wrongfully dispossessed of rights; but it is not his duty to determine whether the plaintiff who avers that the defendants are mortgagees, whose mortgage debt has been satisfied out of the usufruct, is on that account entitled to possession"—*Bhyro Rai* v. *Golab Singh and others*, V N-W-P. Rep. Civ. Ap. 303.]

XII. *First.* In cases in which the proportion of the Government *jamá* and village expenses payable by each proprietor and by each body of proprietors comprised in the several *páttís*, *behris* and other divisions of an estate held under *pattidári* or *bhaiyachára* tenure or the like, may have been originally fixed on a measurement of the lands occupied by each with reference to the quantity

In estates held under *pattidári*, *bhaiyachára* or the like tenure, Collectors may in certain cases make a fresh allotment of

the revenue and charges payable by the several parceners.

in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector or other officer making or revising the settlement shall be satisfied by examination of the *patwáris'* accounts or otherwise that the contributions paid by any proprietor or body of proprietors as aforesaid are materially in excess of the amount justly demandable from them, it shall be competent to him with the previous sanction of the Board to cause a new distribution to be made of the revenue and charges payable by each with reference to the above principle and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the *kánúngo* and such person or persons as he may judge it advisable to appoint, and to settle the *jamá* payable by the different parties according to the award of such person or persons or otherwise as shall appear to be just and equitable.

And in certain cases may make a fresh partition of the land.

Second. In like manner in cases, in which the several proprietors shall be entitled not only to an adjustment from time to time of the *jamá* payable on account of the lands occupied by them but likewise to a periodical partition of the lands of the village with reference to the share recorded as belonging to each, it shall be competent to the Collector to cause a fresh partition of the lands and adjustment of the *jamá* to be made as above prescribed and at the same time fix and declare the period from which the arrangement finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them as may appear equitable: provided however that no such partition or adjustment shall be final, until confirmed by the Board or other authority exercising the powers of that Board: provided also that if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made and shall claim to be restored to possession of the lands which the Collector may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprized in the *mahál* to which he may belong in any case in which the Collector may have refused to order it, it shall be competent to the said party to bring a regular suit in the *Zillah* Court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's decision; but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the *jamá:* and whenever the decision of a Collector for the partition of any land shall be set aside, it will of course belong to the Revenue Authorities to re-adjust the *jamá* with reference to the interests of the parties as defined and settled by

Cases wherein parties affected by Collector's decision may contest it in the *adálat.*

On what points decision of Revenue Officers to be conclusive.

the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.

XIII. Collectors and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other Regulation, do any act tending to disturb possession; but shall leave the *Adálat* to investigate in a regular suit all claims of persons not in possession but deeming themselves entitled to be so.

Collectors shall not disturb possession, unless specially authorized.

XIV. *First.* Collectors making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the *rubakári* of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interests, but stating at length with specification of any examination he may take for his satisfaction the grounds of his determination. So also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under *pattídárí, bhaiyachára* or the like tenure, such sharer having actual possession of a portion of such village or villages or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector to decide the point in the first instance in his *rubakári* of settlement and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right; but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector in regard to the amount or proportion of *jamá* to be assessed on any parcel of land, or in respect to the quantity and description of land to be assigned in partition to the holder of any specific share of a joint estate.

Collectors making or revising settlements may declare the nature and extent of interests possessed by persons occupying land.

Where lands held in *pattídárí, bhaiyachára* or the like tenure, Collectors may decide disputes as to the extent of interest belonging to any parcener, and may enforce his decision, subject to an appeal to the *Adálat.*

Second. The above rule shall not be construed to empower Collectors, unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profit than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Collectors shall not under the above rule take cognizance of claims to larger profits or more land than claimant may have hitherto enjoyed or held.

Third. The decisions passed by the Collectors under the above powers, if not altered or annulled by the Board or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the

Decision of Revenue Officers to be maintained by Courts,

unless proved to be wrong in a regular suit. Courts not to interfere with apportionment of *jamá* or allotment of land made by Collectors, excepting where the principle of Collector's decision may be at variance with decree.

possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue Authorities relative to the *jamá* to be assessed on any *mahál* or portion of a *mahál*, or to the extent and description of lands belonging to any *mahál* that may be assigned on the partition of the same to the several parceners concerned.

In what cases Collectors to take cognizance of complaints of wrongful dispossession.

Fourth. If any person shall complain to a Collector or other officer making or revising the settlement of any *mahál* that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like within such *mahál*, or of the rents, produce or profits of such lands, premises &c. the like, as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector or other officer aforesaid to inquire into the matter and, if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector to restore or confirm him recording the grounds of his determination in a *rubakári*, and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right. In like manner should a Collector or other officer as aforesaid find that there exist in any *mahál* of which he may be making or revising the settlement any disputes relative to the possession of lands, premises or the like, which it may be expedient to adjust, it shall be competent to the Collector or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right (if further disputed) to be settled by the result of a regular suit in the *Adálat*.

Subject to an appeal to the *Adálat*.

The above provisions to what cases to apply.

Fifth. The above provisions shall be held to apply to all cases in which a *zemindár* or under-tenant, whether farmer or *raiyat* having by special deed or prescriptive title a right of occupancy shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents or profits of any land, which were received by such dispossessed party in the preceding year, shall be withheld from him without a legal award or a voluntary act of the party involving the transfer, renunciation or relinquishment of such rents and profits. But the above rule shall not apply to any case in which the complaining party may have executed any deed, purporting to be a relinquishment of possession, unless it shall have been established by some

To what cases the rule shall not apply.

judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.

In settling resumed *lakhiráj* lands, Collectors may take cognizance of claims to the property therein.

And may give possession to parties appearing to have the best title.

Subject to an appeal to the *Adálat* by a regular suit.

The above rule not to extend to lands held under grants made by or at the request of proprietors.

XV. In the settlement of any resumed *mahál* held or pretended to be held under *sánads* from the ruling power or from the *Amils* or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the Collector or other officer making the settlement to hear, try and determine all claims to the property and possession of the land comprising such *mahál* or the rents or produce thereof, any thing in the existing Regulations notwithstanding and subject to the orders and direction of the Board of Revenue or other authority exercising the powers of that Board to give possession to and conclude a settlement with the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the *Zillah* Court, by which all decisions passed by the Revenue Authorities under this section may on such suit being fully heard, sued and determined and not otherwise be revised, annulled or altered. The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession if willing to engage on adequate terms.

Governor-General in Council may grant to Collectors making or revising settlements special authority to take cognizance of claims to the property and possession of land.

XVI. It shall be competent to the Governor-General in Council to grant to a Collector making or revising the settlement of any *mahál*, whether the same may have been held by a *lakhiráj* tenure resumed or being *malguzári* may have become open to resettlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such *mahál* or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board and further subject as above to the revision of the *Zillah* Court on a regular suit: provided also that, whenever special authority may be given to any Collector as aforesaid, notice of the order of Government shall be published by a proclamation within the *mahále* to which the authority so given may extend; and it shall be the duty of the Collectors and the Boards to see that such proclamation is duly made. But no decision passed by a Collector under this or any other section whereby such notification is required shall be disturbed by any Court of Judicature otherwise than after a full and regular investigation of merits on the plea that proclamation was not made.

[See cl. 4, s. 2, Reg. IV of 1828]

Collectors making or revising settlements in what cases to take cognizance of claims to property in lands held *lakhiráj* or at a *mukarrarí jamá* under valid tenures, and to make a settlement with the proprietors on behalf of the *lakhirájdár* or *mukarrarídár*.

XVII. It shall be competent to Collectors and other officers engaged in making or revising the settlement of any *pargána*, *mauza* or other local division, on the application of persons claiming a right of property in lands held free of assessment or at a *mukarrarí jamá* under unquestioned grants from the ruling power or from the *Amil* or other officers of Government and situated within or adjoining to such *pargána*, *mauza* or other local division, to receive, try and determine the claim; and, if satisfied that the applicants do possess or are entitled to possess a hereditary and transferable property in the land or the produce or rent thereof, the Collector or other officer with the sanction of Government previously obtained shall be authorized to conclude a settlement with them on behalf of the *lakhirájdár* or *mukarrarídár* for such period as the Governor-General in Council may direct, and shall grant to each of the said proprietors *pattas* defining the conditions on which they are to hold their lands subordinate to the *lakhirájdár* or *mukarrarídár*. It shall further be competent to the Collector under the orders of the Board to fix and declare the amount of *malikána* or other proprietary allowance to be paid by such *lakhirájdárs* or *mukarrarídárs* to the said proprietors in the event of their being divested of the occupancy and management of their lands: provided however that either party, who may be dissatisfied with the decision of the Collector as to the question of the right of property, shall be at liberty to contest the same in a regular suit in the *Adálat;* but the Courts shall not interfere to alter the terms on which the settlement may have been made by the Collector with proprietors or the amount of *malikána* granted to such persons.

Proviso, that an appeal to the *Adálat* shall lie on the question of right of property.

Collectors to be the Judges as to the question of jurisdiction.

XVIII. The Collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government, and the Courts of Judicature shall not disturb possession given by the Collector except on a regular suit and on a decision as to the right.

Collectors authorized to summon witnesses and require production of accounts.

XIX. *First.* It shall be competent to Collectors when prosecuting the above inquiries or hearing and trying the above suits or otherwise, when authorized in that behalf by the Board to which they may be subordinate, to require all *sadr malguzárs* and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the *mahál* to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the *gomashtahs* or other agents employed by such persons in the management or cultivation of the land or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and

to examine the said persons on oath or *halafnama* to the truth of the accounts produced, or on any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the *mahál*, or the rights and interests attaching to such lands, produce, rent or revenue: provided however that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth or in uttering what is false, not being an interest arising out of fear, favour or reward or any corrupt bargain or agreement with another party.

To exmine on oath, or *halafnama*. Proviso, that persons shall not be examined on oath on questions immediately touching their own interests.

Second. The rules contained in section 11, Regulation II, 1819, relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors or other officers under the rules contained in this Regulation. In like manner the provisions of section 12 of the said Regulation shall be applicable to all *patwáris*, *gomashtahs* or other persons, by whom the accounts of any lands regarding which the said inquiries may have been instituted may be kept, and who after being duly summoned as aforesaid may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce: provided further that Collectors and other officers employed in the settlement of the land revenue or in any of the inquiries specified in this Regulation shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors in cases depending before them under Regulation II, 1819; and the rules contained in clause third, sections 13, 14 and 19 of the said Regulation shall be and be held applicable to all persons who may be summoned by any Collector or other officer aforesaid, or who may resist the process of a Collector issued under the rules of this Regulation, or who may refuse to take an oath or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

Rules of Regulation II, 1819 applicable to processes issued by Collectors under this Regulation. Also to *patwaris* and others summoned or examined in cases cognizable under this Regulation.

And to all o ther persons upon whom process may be issued.

XX. *First.* The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors when employed in making or revising settlements of the land revenue, and shall extend to all the lands comprised in the *pargána* in which he may be so employed; but it shall be competent to the Government by an order in Council to be publicly proclaimed in the district to restrict the authority of Collectors and other officers making settlements in such manner and to such extent as he may from time to time judge expe-

Powers specified in sections 11, 12, 14, 16, 17, 18 and 19 to be ordinarily vested in Collectors making or revising settlements. But Governor-

General in Council may restrict powers to be exercised on any particular occasion. Like powers may be specially vested in Collectors, though not engaged in making or revising settlements. Collectors may be similarly vested with special powers to try all suits regarding rent,

dient. In like manner it shall be competent to Government to vest such Collectors, as may from time to time be judged fit, with a special authority to receive, try and determine in the first instance, subject to a regular suit in the *Adálat* as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors may not be engaged in making or revising a settlement of the land revenue; and to vest in such of the Collectors, as may be thought proper, authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by *zemindárs, tálukdárs* or other *sadr malguzárs* or farmers of land or by any person in their behalf against any dependent *tálukdár, zemindár,* under-renter, *raiyat* or other under-tenant of whatever denomination, as well as all applications by *raiyats* and the under-tenants contesting the demand of a *sadr malguzár* or farmer, and all complaints preferred by *raiyats* or other under-tenants of whatever description against landholders or farmers of land or their respective agents or representatives on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description with their sureties or with any agents or persons employed by them in the management of land or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land whether *malguzarí* or *lakhiráj,* or with the rent of orchards, pasture grounds and fisheries, commonly denominated *phalkar, bankar* and *jalkar,* or with any other asset of the land revenue not included in the *sayar* abolished, together with all complaints of the non-delivery of *pattas* when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of the rent, and generally complaints of any deviation from the Regulations or from the established usage of the country relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land between landholders or farmers of land and their under-tenants of whatever denomination.

or exaction of rent, the adjustment of accounts between landlord and tenant, their sureties and agents, and touching all matters connected with land, the rents or produce of land, the delivery of *pattas*, the violation of engagements, and generally all disputes between *sadr malguzárs*, and farmers and their tenants.

[So much of this and the following sections as applies to suits for rent, to complaints of excessive demand or undue exaction of rent or of the non-delivery of pattas or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land, save in so far as they repeal any other Regulation, &c. were repealed by s. 1, Act X of 1859.]

Appointment of Collector to exercise the above duties how to be notified.

Second. The appointment of the Collector to the discharge of the above duties and the extent of the jurisdiction to be assigned to him shall be notified by proclamation in the district after such manner as the Governor-General in Council may direct; and after the publication of such notice all summary suits,

actions, applications and complaints of the above nature and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the *zillah Adálat* by any *sadr malguzár, zemindár, talukdár,* farmer, *raiyat,* or other proprietor or under-tenant of land, shall immediately on being received be referred for trial to the Collector, to whom also all such summary suits depending at the time shall be transferred: provided also that in such cases parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collector, shall be at liberty to prefer them to that officer in the first instance. It shall in like manner be competent to the Governor-General to fix by an order in Council the period at which the special powers given as above to a Collector and the authority to be ordinarily exercised by those officers on the occasion of making settlements shall cease and determine.

Governor-General may fix by proclamation period for which Collectors are to exercise judicial powers under this Regulation.

Third. No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.

Collectors shall not take cognizance of complaints specified in preceding clauses, unless preferred within one year.

["The principle that existing settlement arrangements cannot be disturbed by Collectors except under the provisions of s. 20, Reg VII of 1822, has for many years been in force"—*Rai Himmat Singh* v. *The Collector of Bijnour*, II N-W-P. Rep. Civ. Ap. 258. In this case, plaintiff's title had been recognized in 1836 by the Settlement Officer, who assigned him a proprietary allowance. A subsequent Collector stopped this allowance during the pendency of the completed settlement, and he was held to have no power to do so under s. 20, Reg. VII of 1822.]

XXI. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules and shall exercise the same powers and authority as are or may be lawfully exercised by the *Zillah* and City Judges. In other cases falling under their cognizance according to the provisions of this Regulation the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person or by representative at such time and place as may be made choice of by the Collector for conducting the investigation. Should any party fail to attend after being served with a notice of the above description or should the return of the *Nazír* or person employed to serve the notice be that after diligent search the party or parties cannot be found, proclamation shall be made in writing to be stuck up at or near the ordinary residence of the party, stating that after fifteen days from the date of publishing the same the case will be liable to be brought up for trial and judgment, and any party implicated, who having been served with the notice above described shall fail to

Collectors by what rules of practice to be guided, and what processes to issue.

attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

Collector's *kachahrí* shall be held a Court of Civil Judicature: and his decisions shall be deemed to be judicial awards.

XXIII. *First.* It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors of land revenue or other officer by virtue of the powers vested in them by this Regulation or any other Regulation whereby Collectors are vested with judicial powers, their *kachahrí* or office for the time being shall be deemed and held to be a Court of Civil Judicature.

Second. Provided also that the regular suits, which may be brought to contest decisions passed by Collectors under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19, and 20, shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector or other officer of Government to be a party in the action.

Collectors authorized to execute awards made by them.

Third. Collectors of the land revenue are hereby empowered to execute all awards made by them under the rules of this Regulation in cases wherein a specific sum of money shall be adjusted to be due, or any costs or damages be awarded. The Collector decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue: provided however that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry. In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector making award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like, as are or may be lawfully exercised by the Courts in giving possession to an auction-purchaser; and the *zillah Adálats* shall support the Collectors in the exercise of the above power and shall give effect to any orders passed by them in pursuance of it, in the like manner as if the same had been passed by themselves. Collectors are further hereby empowered to place one or more *peons, mirdáhas, sawárs* or the like to aid in the maintenance of possession for the party to whom it may be awarded in case of his deeming such a measure necessary or expedient.

[So much of this clause as prohibits Collectors from selling land *in satisfaction of summary awards for arrears of rent, which may have accrued thereon,* was repealed by s. 1, Act VIII of 1835.]

XXIV. *First.* It shall and may be lawful for a Collector or other officer exercising the powers of Collector, preparatory to making or revising a settlement as aforesaid, to depute any *tehsildár, kánúngo, amín* or other fixed or temporary officer to any village or *mahál,* whether the same be managed by a *zemindár* or farmer or be held *khas,* to inquire into the various matters which such Collector or other officer is required or empowered to investigate in order to form a settlement in the mode prescribed by this Regulation. Any such native officer so deputed as above shall be deemed to be vested with the power of summoning and examining *patwáris, gomashtahs* or other persons by whom the accounts of the village or *mahál* may be kept, in the same manner and with the same powers as is provided for officers deputed under section 25, Regulation XII, 1817. Furthermore, in case the Collector or other officer may so prescribe, the said *tehsildár* or other person shall be empowered to make a measurement of the village or *mahál* into which they may be deputed, and to summon any *mukaddams, pradháns, raiyats* or other residents, and to call upon them to point out the boundaries of such village or *mahál* and to furnish information as to all matters relating to the land and the rights and interest attaching thereto: and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable on the same being established to the Collector's satisfaction to the same penalty as is prescribed for *patwáris* refusing to attend or give evidence.

Collectors authorized to depute native officers to make inquiries preparatory to settlement.

Second. Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector or other Revenue Officer shall in addition to the penalties prescribed by the existing Regulations for such act be liable to a fine not exceeding two hundred rupees or to imprisonment in the *díwání* jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.

Resistance or obstruction of the process or order of a Collector, how punishable.

Third. Provided further that all Police officers shall aid and support the execution of all process and orders issued by a Collector or other Officer aforesaid, on the responsibility of the officer issuing or executing the same; and, if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made or attempted to be made to the legal process or order of a Collector or other Revenue Officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace and the Revenue Officers shall not be liable to any criminal prosecution on that account.

Police officers to aid and support the execution of process and orders of Collector.

XXV. It shall be competent to the parties in all suits, the cognizance of which is hereby vested in the Collectors of revenue, to employ any agent, *vakíl*

Parties in suits tried by Collectors may

employ any *vakils* or agents they think proper.

or representative whom they may think proper to appoint to act and plead in their behalves, provided such agent, *vakíl* or representative be duly empowered by the parties. The rate of remuneration to such agent or *vakíl* shall be left to be adjusted between himself and his constituent, but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed than what may be deemed by the Collector a fair equivalent for the attendance of such agent.

[This section, save in so far as it repeals any prior enactment, was repealed by s. 3, Act XX of 1865, so far as concerns its application to the Lower Provinces of Bengal and the North-Western Provinces, and to those territories to which the said Act XX may be extended under the provisions of s. 47, thereof.]

What pleadings to be required.

XXVI. No other pleadings shall be required from the parties in such suits than a plaint and answer, provided that if the parties should at any time wish to file an amended plaint or an amended answer or any explanatory motion, such subsidiary pleadings shall be received.

Stampt paper to be used.

XXVII. The *múkhtarnámas* or *vakálatnámas* and the pleadings and final decree in such suits shall be written on stampt paper of the value of eight annas, whatever may be the amount of the suit, and no fees shall be taken on exhibits tendered in the cause or for the witnesses required by the parties; nor shall it be necessary for the parties to present a written motion on stampt paper for the filing of such exhibits or for the summoning of such witnesses.

Collectors may try and determine suits in any part of their districts.

XXVIII. It shall be competent to the Collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside, provided that every hearing and decision be in public *kachahrí* or in some other place open to the public, and in the presence of the parties or of their constituted agents or *vakíls*, if in attendance.

Decisions how appealable to Boards.

XXIX. *First.* The decisions of the Collectors on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board. The petition of appeal shall be presented either to the Collector or to the Board, at the option of the party, and shall be written on stampt paper of the value of two rupees, but no petition of appeal shall be received after the expiration of three months from the date of the decision, unless sufficient cause shall be shown for the delay to the satisfaction of the Board. Provided also that the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation in all cases in which on a consideration of the final *rubakári* of the Collector they may not see ground to consider the decision of that officer to be

Board how to proceed on such appeals.

unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect: provided also that in all cases in which the Collector may dismiss the suit for non-attendance or on some other ground of default without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause it shall be competent to the Board to interfere and to cause the Collector to proceed upon the inquiry into and determination of it.

In what cases Board may direct a new trial or interpose to correct neglect or delay.

[Section 1, Act III (B.C.) of 1868, enacts that no petition of appeal presented under this section shall be received after the expiration of *thirty days* from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented. The thirty days are to be reckoned from and exclusive of the day on which the decree was passed and also exclusive of such time, as may be requisite for obtaining a copy of the order appealed against. These provisions have application only to the provinces subordinate to the Lieutenant-Governor of Bengal.

Settlement proceedings are primarily proceedings between land-owners and the Government. If a land-owner seeks to bind his tenant by such proceedings, he should show distinctly that they were parties to an enquiry held by the Collector into the nature and extent of their holdings.—*Syud Shah Ali Ahmed* v. *Dúrga Rai*, XXII W. R. 455.]

Second. No pleadings except the petition of appeal shall be required in such appeals nor shall any fees be taken by the Board on the exhibits originally filed or on any further documents which the Board may think it necessary to call for.

What pleadings to be required in appeals to Boards.

Third. If the parties choose to employ in the pleading of such appeals the same agents or *vakíls* who were previously employed by them in the original suit, no further *múkhtarnáma* or *vakálatnáma* shall be required of them.

Fourth. The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by *vakíl*, and the appeal shall be decided on the merits of the case notwithsanding his absence in the same manner as if he had attended.

Respondents to receive notice, but not to be required to appear.

Fifth. The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the Collector, and shall be rendered in a *rubakári* written on stampt paper of the value of two rupees.

Board's decision to be final as to the result of summary inquiry.

Sixth. Any person however, dissatisfied with the summary judgment of the Collector or the Board and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the *zillah* or other similar or superior Court in which it may be cognizable. In such cases

But decision of Board and Collector may be contested by regular suit in *adálat*.

the summary judgment of the Collector, if not reversed or stayed by the Board, shall be carried into effect notwithstanding the institution of the regular suit.

[A person may sue in the Civil Court to enforce his right to participate in a settlement. It has been the invariable practice to allow a person, who alleges that he is entitled to a permanent settlement, to come into the Civil Court to obtain a declaration of that right; and the Government has invariably recognized the right so declared by making or altering the permanent settlement accordingly—*Krishna Chandra Sandyal Chaudhrí* v. *Harish Chandra Chaudhrí*, VIII B. L. R. 524.

Zemindarí rights are not extinguished by a temporary settlement; they are merely in abeyance during its pendency: but possession under a permanent settlement is adverse from the date of its conclusion—*Krishna Chandra Sandyal Chaudhrí* v. *Shama Sundarí Debya Chaudhrain and another*, XXII W. R. 520.]

Parties having claims cognizable by Collectors, and not wishing a summary trial, may in the first instance bring a regular action in the *adálat*.

XXX. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors under the provisions of this Regulation and not wishing to avail themselves of the summary process authorized in that Court shall be at liberty to institute their claims or complaints in the first instance by a regular suit before the local *munsif* or in the *Zillah Adálat*, according as the suit may be cognizable in these Courts respectively.

On appeal to a Court against the decision of a Collector, the proceedings held by that officer shall be called for and filed in the case.

XXXI. *First.* Whenever a regular suit may be instituted in the Civil Court with a view to set aside or alter a summary judgment passed by a Collector, the proceedings held on the summary inquiry shall be called for by precept from the Court and filed on the record of the case.

No such appeal cognizable by, or referrible to any *Munsif*.

Second. Provided also that no such suit shall be cognizable by or referrible to [any] *Munsif*, and all *Munsifs* shall in cases tried by them be held and bound by the decisions passed and records prepared by Collectors or other Revenue Officers under the provisions of this Regulation, unless the same shall have been rescinded or altered by the Board or by the *zillah* or other similar or superior Court on a regular suit.

[So much of this clause as provides that the suits therein mentioned shall not be cognizable by Munsifs was repealed by s. 2, Act XXV of 1837.]

Periodical reports to be furnished by Collectors to Boards.

XXXII. The Collectors shall transmit to the Boards such periodical reports of the causes decided by or depending before them, as the Boards may direct, and the Boards will also furnish to Government such abstracts of those reports and such reports in the cases received and determined by them in appeal, as the Governor-General in Council shall from time to time require.

Collectors authorized to refer certain

XXXIII. *First.* It shall be competent to Collectors or other officers exercising the powers of Collectors to refer to arbitration any disputes cognizable

by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein or the rights dependent thereon that may come before them, provided the parties consent to that mode of adjustment, and on award being made to cause the same to be executed. In referring cases to arbitration under the above provision and in their general proceedings relative to such suits the Collector shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses and the administration of oaths, and to enforce the orders passed by the arbitrators under such powers in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall when confirmed by the Collector have the same force and validity as a regular decree of the *Adálat*, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality or shall extend beyond the authority given by the submission of the parties, and such ground of impeachment shall be established in a regular suit in the *zillah*, city or other superior Court, wherein the case may be cognizable.

cases to arbitration.

Force of awards passed on such reference.

Second. In referring any dispute to arbitration, the Collector shall be careful to specify in his proceedings and in the deed of arbitration, to be executed by the parties, the precise matter submitted to the arbitrators; and, if the award first made by the arbitrators shall not include all the points submitted to them or shall be otherwise incomplete, it shall be competent to the Collector again to refer the matter to them with directions to perfect their award.

Matter of arbitrement to be distinctly specified in Collector's proceedings.

Third. The *pargána kánúngos* and *tehsildárs* may be appointed arbitrators in any case referred to arbitration under the above rules, anything in the existing Regulations notwithstanding.

Kánúngos and *tehsildárs* may be employed as arbiters.

XXXIV. *First.* When a Collector or other officer exercising any of the powers vested in Collectors by the rules of this Regulation relative to complaints of dispossession or disturbance of the possession of lands or premises shall learn either by a reference from the Magistrate or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction relative to any lands, premises, crops, orchards, pasture grounds, fisheries, wells, watercourses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place and, after investigating the case in the presence of the parties or their representatives or such of them as may attend or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties:

Collectors in what cases to interfere of their own motion in cases of disputed possession.

And to give possession to one of the contending parties.

provided also that, if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector, subject to the orders and direction of the Board, to decide on the question of right and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in Court. But no such decision shall be passed by any Collector until he shall have instituted a careful inquiry into the fact of possession, and the Board shall be careful to see that this restriction is observed: provided further that in such cases it shall be competent to the Collector to attach the disputed lands, premises, &c. as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom with the charges of management, until one of the contending parties shall be placed in possession.

Collector may attach disputed lands, &c.

Magistrates and Joint Magistrates in what cases to refer disputes to Collector.

Second. Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate in cases in which the Collector shall be vested with the cognizance of such actions to certify the case to that Officer, and the Collector will then forthwith proceed to investigate and determine the case under the rules above prescribed: provided also that in all cases of forcible dispossession or forcible disturbance of possession the Collector shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case and also a copy of the *rubakari* containing his final award.

[See Chap. XL of the Code of Criminal Procedure, Act X of 1872.]

Collector to encourage arbitration.

Third. The Collector shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration in like manner as the *Díwání* Courts are directed to do.

Meaning of the term 'Board of Commissioners' &c. as used in this and other Regulations.

XXXV. Whenever the term "Board of Revenue" or "Board of Commissioners" may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, Committee or Commission, and to any member of such Board, Committee or Commission that may be vested by the Governor-General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided. In like manner all rules in this or any other Regulation, whereby any duties or powers may be prescribed for or vested in Collectors, shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the Governor-General in Council.

Rules regarding Collectors, to apply to any officer exercising authority of Collector under orders from Government.

REGULATION XI OF 1822.

A REGULATION *for modifying and explaining the existing Regulations relative to the Sale of Land for the Recovery of Arrears of Revenue, for declaring Government not to be liable for any Errors or Irregularities in the Proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue Officers in certain cases.*—PASSED *by the Governor-General in Council on the 22nd November* 1822.

XXXVI. If a Collector shall at any time, being so instructed by either the Government or the Board, purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary *malguzárí maháls* held *khas* or farmed shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held *khas* or let in farm.

In case of a purchase by Government, the rules for *khas* management to be applicable.

[As to the rights of Government and the owner of *khas* mehals in the 24-Pargánas, see *Ganga Gobind Mundul and others* v. *The Collector of the* 24-*Pargánas*, VII W. R. Priv. Coun. 21.]

XXXVIII. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity, which may have occurred or shall occur in any order, proceeding or decree of any Court of Judicature, whether a Revenue or other Officer of Government may or may not have been or shall or shall not be employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular: nor shall any Officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid; and, if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited with costs. The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

Government not liable for errors of the Courts of Justice, whether Revenue Officers be or be not employed in executing the Court's orders.

REGULATION VI OF 1823.

A REGULATION *for authorizing the institution of Summary Suits to enforce the execution of certain written engagements for the cultivation and delivery of Indigo Plant, and for declaring certain principles in regard to the same.*—PASSED *by the Governor-General in Council on the 10th July* 1823.

The poverty of the lower orders in India and particularly of those employed in agriculture occasions the general use of borrowed capital for the production

Preamble.

of the chief articles of trade and consumption. The capitalist advances his money and sometimes the seed likewise upon a contract to receive the produce of a defined quantity of land either at a certain fixed price or at rates to be subsequently determined with reference to the market price at a specified season, and this system is understood generally to prevail in the Province of Bengal in the cultivation of the plant from which the indigo dye is extracted. According to the existing Regulations, if the contracting *raiyat* should fail to cultivate the land in the manner specified, or having so cultivated the land should sell the produce to another or otherwise defraud his creditor and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement. It is usual for the Courts of Justice in decreeing such causes to award such limited penalty as may in each instance appear to be a fair compensation to the person making the advances for the non-employment of his capital. In the absence however of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature. Under the rules for imposing a stamp duty it is provided that all deeds and agreements shall be written on paper bearing a certain stamp proportioned "to the value of the property transferred, or otherwise affected." But in agreements of the kind above described it is not clear whether the amount of the stamp ought to be fixed with reference to the sum actually advanced or to the penalty or penalties which may be specified as eventually exigible on the failure of the contractor; and it is of great importance to the parties that this point should be determined so as to prevent the risk of *bonâ fide* deeds being rendered void in consequence of any inaccuracy in the description of stamp paper employed in drawing up the agreement. It seems reasonable also that the person, who advances seed and capital or capital only for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo plant produced on that land, when so stipulated in a written engagement between the parties and especially in cases in which such written engagement may have been duly registered under the provisions of Regulation XX, 1812, and that it should not be in the power of a *raiyat*, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another. The system at present in force provides (as above observed) no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court. The difficulty and delay of obtaining redress by that course have not unfrequently led to acts

of violence and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo manufacturers in some parts of Bengal arising from the unusually high price of indigo. The Governor-General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled and to provide for the more prompt adjustment of disputes, and enforcement of the contracts of the nature above specified—and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal from the date of their promulgation.

[This Regulation was extended by Reg. V of 1824 to the Provinces of Orissa, Bahár, and Benares, and to the Ceded and Conquered Provinces. It was also amended by Reg. V of 1830, q. v. Reg. XX of 1812 has been repealed.]

Under what circumstances persons making advances for the cultivation of the indigo plant on defined portions of land shall be held to have a lien or interest in the produce of such land.

II. If any person shall have given advances to a *raiyat* or other cultivator of the soil under a written engagement stipulating for the cultivation of indigo plant on a portion of land of certain defined limits, and for the delivery of the produce to himself or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests and for the due execution of the conditions of the contract.

Such person how to proceed, when he has just reason to believe that the *raiyat* will dispose of the produce otherwise than stipulated.

III. *First.* If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the *zillah* Judge, within whose local jurisdiction the land stipulated to be cultivated with the indigo plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons to be issued for the attendance of the defendant.

Second. On such petition and original deed of engagement being filed, a summons or *talab chitthi* should be immediately issued through the *nazír* in the usual form, requiring the individual named in the petition to attend and answer to the complaint either in person or by an authorized agent within such specified period as may in each instance appear reasonable and which period shall in no case exceed twenty days.

Summons how to be served.

Third. The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village *kachahrí* or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred and which it shall be the duty of the plaintiff or his agent to point out. By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right or of establishing a prior right to the produce of the land to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend before the summary decision be passed will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

And public notice of the claim, how to be given.

On non-appearance of defendant or other claimants, evidence to be taken, and the case decided *ex parte.*

Fourth. If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed and, if the defendant shall not appear to answer to the complaint within the period specified in the summons and no other claim be preferred in bar of that of the plaintiff, the Judge or other officer shall after taking evidence to establish the deed and other allegations of the plaintiff proceed to the adjudication of the claim in the same manner as if the defendant had personally appeared.

In what cases an award shall be passed, adjudging the plaintiff's right to the produce.

Fifth. If the defendant or his authorized agent should attend within the period specified and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken and, if its voluntary execution be established to the satisfaction of the Court or other tribunal trying the case and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement. The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If the plaintiff's claim be not established, the plaintiff to pay costs and compensation to the defendant.

Sixth. If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed and the plaintiff shall be made liable to the payment of costs and such reasonable sum in addition, as may seem to the Judge or other officer trying the case a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Notice to be given to third parties in what

Seventh. If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall imme-

diately be issued for that party to appear and plead either in person or by *vakil;* and, if such person or any third party shall previously to the decision of the case come forward and produce a similar deed of engagement stipulating for the produce of the same portion of land, the Judge or other officer trying the case shall after such summary investigation as may be necessary determine whether either of the parties have any just claim to the produce of the land, and if so, which of them may have the prior and better claim. A preference will of course be given to engagements duly registered under the provisions of Regulation XX, 1812. The result of such investigation shall be recorded and a decree passed adjudging the question of right between the parties.

cases, and their claims how to be investigated.

Eighth. No defendant, who may attend under the process described in this section, shall be confined in jail or be in any manner detained longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest.

Defendant not to be subjected to unnecessary detention.

Ninth. If pending the summary inquiry in the manner above directed it shall appear that the plant on the ground is in a state fit to be cut and will be injured or destroyed if not cut, it shall in such case be competent to the Judge or other officer trying the case to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation. The amount of such compensation shall be fixed by the Judge or other person trying the case in communication with the parties, and shall be regulated with reference to the estimated produce of the ground and to the probable value of such produce when manufactured, and the amount when so fixed shall be carefully recorded on the proceedings.

In what cases an order may be issued to deliver the plant to a party before the summary inquiry may be completed.

Engagement to be entered into by such party.

[Section 2, Act X of 1836 enacts that the party, for the delivery of the plant to whom an order has been passed under this clause, shall not be allowed to cut or remove such plant until he has given sufficient security to make good any claim, that may be ultimately established to such indigo plant, whether arising from a prior right to the produce of the land or from an arrear of rent due on account of such land.

Section 3 of the same Act enacts that, when a third party knowingly induces a raiyat to break his contract, the person who made the advance may sue him as well as the raiyat and recover from him or them jointly or severally damages to the extent of the injury sustained together with costs.

Section 4 provides that both plaintiff and defendant may be examined as witnesses, and that if the award be in favour of the latter, the Court may assign him a sum as compensation for the expense and loss of time occasioned by the proceeding. The former provision was an exception to the general rule (since swept away by the progress of law reform) which disqualified parties to suits from giving evidence.]

Authority to watch fields and to prevent removal of the plant, given to parties in certain circumstances.

IV. *First.* Any person, in whose favour a summary award shall have been passed for the produce of any defined spot of land, shall be entitled to place a watch over the same and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement, and in the event of any attempt being made to cut or remove the plant it shall be competent to the person holding the decree to apply to the nearest Police *darogha*, and to claim from him the assistance of the Police in preventing such removal. It shall moreover be the duty of the Police officers and of all other officers on such a decree being exhibited to aid the person in whose favour it may have been passed to the utmost of their power.

Security for rent due to landholders, how provided.

Second. In order that the foregoing rule may not operate to the prejudice of the landholders, who by the existing Regulations are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer who may have obtained an award under the foregoing rules may cause the plant to be cut and taken away, he shall be held responsible conjointly with the *raiyat* for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo plant may have been taken.

Parties injured by breach of contract in regard to the cultivation and delivery of indigo plant may institute either a summary or regular suit.

V. *First.* In cases in which a *raiyat* who may have received advances and entered into written agreements for the cultivation and delivery of indigo plant in the manner indicated in this Regulation shall have failed to cultivate the ground specified, or having cultivated it shall have failed or refused to complete his engagement, or shall have sold, made away with or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute at his option either a summary or a regular suit.

Judgment to what extent in summary suits.

Second. If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him with interest on the same and the costs of the summary process.

Amount of penalty to be awarded in regular suits, where the breach of contract may not be ascribable to fraud or dishonesty.

Fourth. If no fraud or dishonest dealing be established and the failure of a *raiyat* or other contractor to execute the stipulations of his engagement by the delivery of indigo plant in the manner stipulated be owing to accident or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

[B contracted with A to sow 84 bighás of land with indigo in consideration of an advance of Rs. 119, stipulating that, if he failed to cultivate or cultivated less land than that for which he had received the advance, or if he gave the indigo plant to other factories, he would pay Rs. 10

per bíghá as the value of the manufactured indigo. In 1860-61 B failed to cultivate, and A recovered against him Rs. 713 as damages. B again in 1862-63 failed to cultivate, and A recovered against him Rs. 1,549 being less than Rs. 10 per bíghá on 84 bíghás for these two years. B appealed urging 1*st*, that A having already obtained damages for the non-fulfilment of the contract could not succeed in a second suit for damages on the same contract; and 2*nd* that A could not recover altogether more than three times the amount of the advance. On the *first* point it was held that damages not exceeding Rs. 10 per bíghá were recoverable in respect of each year in which B failed to perform his contract. On the *second* point it was held that the failure to cultivate *primâ facie* implied dishonesty, that it was for B the defendant to show that such failure was owing to accident in order to entitle him to the benefit of the above clause (4); that, as he had not done so, the rule of law must prevail, and A was entitled to recover an amount of damages not exceeding the sum which B had stipulated to pay on failure by him to perform his contract—*Lal Mahomed Biswas* v. *Messrs. Robert, Watson & Co.*, I Ind. Jur. 3. As to damages being recoverable for successive breaches of the same contract, see also *Moti Sahú and others* v. *A. J. Forbes*, VI W. R. Act X Rul. 61, and Civ. Rul. 278.

In the case of *Dalíp Singh* v. *Seth Roshan Lal* (I N-W-P. Rep. Civ. Ap. 69), it was objected on appeal that it was not obligatory on the Courts to award so much as three times the amount of the advance. The objection was admitted and it was decided that the Courts were not bound to award three times the amount of the advance, when the actual loss sustained was less. The following observations made in a previous case were quoted with approbation:—"The law and the precedents distinguish between cases in which the breach of contract is owing to accident, and those in which it is owing to some other cause implying fraud or dishonesty. In cases of the first kind the penalty, though it will be adjudged in reference to the extent of injury sustained, must not exceed three times the sum advanced. In cases of the second kind the extent of the injury sustained is without any restriction whatever the standard for regulating the amount awardable." See also *Zyan udín* v. *G. A. Wright*, IV N-W.-P. Rep. Civ. Ap. 77, where it was further remarked that the amount of the advance itself could not be included or considered except as the mode of measuring the damages, the limit of which in cases of accidental failure to deliver indigo is three times such amount.]

Summary investigations how and by whom to be conducted.

VI. Summary investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of suits for arrears of rent. It shall be competent to any person, whose claim under a deed of engagement for the cultivation and delivery of indigo plant may have been set aside or who may be otherwise dissatisfied with the decision passed on a summary investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement or for the establishment of any other claim or interest to which he may deem himself entitled.

[A large number of cattle belonging to the defendants were either wilfully allowed to stray or were driven into the indigo belonging to plaintiff, and this on several days, so that more than 200 bíghás of indigo were destroyed. *Held* that it was a case for exemplary or vindictive damages, which were accordingly awarded to the extent of Rs. 1,000 against the principal defendant, and Rs. 100 against each of the others—*Srihari Rai and others* v. *James Hills*, IX W. R. Civ. Rul. 156: V R. C. & C. R. Civ. Rul. 177: and in another stage at III R. C. & C. R. Civ. Rul. 117.

A sued B for damages recoverable under s. 3, Act X of 1836 in consequence of B having instigated certain raiyats not to sow indigo. *Held* that A could not obtain liquidated damages calculated on the penal amount due by the raiyats under their contract, but was entitled to recover only damages to the extent of the actual injury sustained by him. Of such actual damage he had given no proof, and the High Court in appeal therefore dismissed his case—*Mír Mahomed Kazim* v. *A. J. Forbes*, VIII W. R. Civ. Rul. 257, and IV R. C. & C. R. Civ. Rul. 127. See also V W. R. Civ. Rul. 277, where it was ruled that the planter could not recover from the cultivators both *liquidated damages* and also the amount advanced by him.

Limitation.

The period of limitation applicable to suits brought under s. 3, Act X of 1836 against persons prevailing upon cultivators to break their contract to sow indigo was held to be six years, under cl. 16, s. 1, Act XIV of 1859—*Mir Mahomed Kázim Chaudhrí and others* v *A. J. Forbes*, V W. R. Civ. Rul. 277: *A. J. Forbes* v. *Pertab Singh Dugur and others*, VII W. R. Civ. Rul. 400, and III R. C. & C. R. Civ. Rul. 264. According to these same cases, the period of limitation applicable to suits against the cultivators to recover damages for breach of contract to sow indigo is three years under cl. 10, s. 1, Act XIV of 1859. See also, as to limitation to suits against instigators—*Mír Mahomed Kazim* v. *A. J. Forbes*, VIII Civ. Rul. 257, and IV R. C. & C. R. Civ. Rul. 127; and as to limitation counting from each breach of the contract—*Motí Sahú and others* v. *A. J. Forbes*, VI W. R. Act X Rul. 61, and Civ. Rul. 278. See now s. 23, and arts. 28, 115 and 117 of Schedule II of Act IX of 1871.]

REGULATION VII OF 1823.

A REGULATION *for prohibiting Loans by Covenanted Civil Servants from persons subject to their official authority and influence.*—PASSED *by the Governor-General in Council on the* 30*th October* 1823.

Preamble.

Whereas by the existing Regulations all Covenanted Civil Servants of the Company employed in the Judicial and Revenue Departments of the service are prohibited from lending money directly or indirectly to any proprietor or farmer of land, dependent *tálukdár*, under-farmer or *raiyat*, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence—the following rules have been enacted by the Governor-General in Council and are to be in force from the date of their promulgation throughout the provinces immediately subject to this Presidency.

Civil Servants in every department prohibited from borrowing money from the native officers under their authority, and the connections of such officers;

II. *First.* All Covenanted Civil Servants, in whatever department of the public service they may be employed, are henceforward prohibited under pain of dismissal from office from borrowing money from or in any way incurring debt to any native officer under their authority or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependent of any such native officer, or from or to any person of whom such native officer may be known to be or to have been the servant, agent, surety or dependent.

Second. In like manner and under the like penalty all officers of Government being Covenanted Civil Servants are henceforward prohibited from borrowing money from or in any way incurring debt to any manager, guardian, executor, *amín, sazawal, gomastah,* farmer, *mutawalli* or other person who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependent of such person.

And from other persons officially accountable to them.

III. All Judges of *zillah* Courts, all Magistrates, Joint Magistrates, Registers, and Assistants to Magistrates, all Collectors and Deputy Collectors of the land revenue, all Assistants to such Collectors or other officers exercising the powers of such Collector are prohibited under pain of dismissal from office from borrowing money from or in any way incurring debt to any *zemindár, tálukdár, raiyat,* or other person possessing real property or residing in or having a commercial establishment within the city, district or division to which their authority may extend.

Certain officers prohibited from incurring debt to *zemindárs* and others residing in or having property within their districts.

IV. All persons are prohibited from lending money or otherwise becoming in any way creditor to any officer of Government being a Covenanted Civil Servant, in contravention of the above rules; and any person lending money or in any way becoming creditor to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

Prohibition against lending money to Civil Servants contrary to the above rules.

Penalty for a breach of this prohibition.

VI. In like manner if any Covenanted Servant who may be hereafter appointed to any office shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant before entering on the duties of the office to make known the circumstance to the Governor-General in Council, and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

Officers receiving new appointments, if indebted to individuals contrary to the above rules, to report.

Penalty for omitting to report.

VII. Any native causing himself to be appointed to any office in opposition to the provisions of Regulation XXI, 1814, as herein before extended, or in any way knowingly accepting office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed.

Penalty on natives, knowingly taking office in contravention of the above rules.

VIII. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the Governor-General in Council and shall be conducted by the Superintendent and Remembrancer of Legal Affairs or by such other officer as Government may nominate for

Penalties to be enforced by prosecution at the suit of Government.

that purpose. Such suits shall be instituted in the Court of the division, within which the transaction may have taken place, or the lender may reside or may possess real or personal property. An appeal shall lie from judgments passed in such cases in like manner as from other judgments passed in original suits, and the judgments shall be enforced under the provisions for the execution of other decrees of the Civil Courts.

REGULATION VI OF 1825.

A REGULATION *for rendering more effectual the rules in force relative to Supplies and Preparations for Troops proceeding through the British Territories.*—PASSED *by the Governor-General in Council on the 4th April* 1825.

Preamble. Whereas it is enacted in the first clause of section 3, Regulation XI, 1806 that, on receiving the notification mentioned in the preceding section relative to a body of troops about to proceed by land or by water through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, *tehsildárs* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges or otherwise for enabling the troops to cross such rivers or *nálas* as may intersect their march, without impediment or delay; it being at the same time further directed in the second clause of the section referred to that the supplies so furnished shall be paid for by the persons receiving the same at the current *bazâr* prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over the rivers or *nálas* after being duly ascertained will be paid by Government: and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above mentioned by imposing a fine upon any landholder, *tehsildár* or other person in the possession or management of land, who after receiving the requisition issued in pursuance of the section above cited may be proved to have wilfully disobeyed or neglected the same—the Governor-General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the provinces immediately subject to the Presidency of Fort William.

Zemindárs having been warned by the Collector to provide supplies for troops,

II. Any landholder, farmer, *tehsildár* or other person in the possession or management of land, who may have been duly required by a Collector of the land revenue or any public officer acting in that capacity in pursuance of section 3, Regulation XI, 1806 to provide supplies for a body of troops about to

proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise for enabling the troops to cross rivers or *nálas*, intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall on proof of such failure, neglect or disobedience to the satisfaction of the Collector or other officer acting in that capacity, by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer with due regard to these conditions may judge it proper to impose, so that the fine shall not, in any case exceed the sum of one thousand sicca rupees.

or to provide boats, &c. for crossing *nálas*.

Shall on proof of neglect or disobedience be punishable by a fine,

Not exceeding 1,000 sicca rupees.

III. The Collector, or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry in the presence of the party charged with disobeying or neglecting the order issued to him or of his representative, if on being duly summoned he shall attend in person or by *vakíl* for that purpose. If he shall fail to attend either in person or by *vakíl*, the summary inquiry shall be conducted *ex parte* and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

The Collector to make a summary inquiry, in presence of the party charged with neglect or disobedience, or his representative.

The Collector may hold *ex parte* proceedings on failure of either to attend.

IV. The Collector or other officer, who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue: provided that if an appeal be preferred from his decision within six weeks from the date of it to the Board of Revenue in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

The amount of fine how to be levied.

Appeal to what authority preferrible.

V. Appeals from the orders of Collectors or other public officers adjudging fines under this Regulation may be preferred on the stampt paper prescribed for other appeals to the Revenue Boards either immediately to the proper Board, or through the officer by whom the fine may have been adjudged, and on admission of the appeal the whole of the proceedings in the case shall be transmitted to the Board. But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment without proof of sufficient reason for the delay to the satisfaction of the Board by whom the case may be cognizable.

Petition of appeal to be written on stampt paper.

Limitation of appeal.

REGULATION IX OF 1825.

A REGULATION *for extending the operation of Regulation VII,* 1822, *for authorizing the Revenue Authorities to let in Farm estates under temporary leases on the default of the Malguzárs or to hold the same Khas for a term of years, for modifying and adding to the rules contained in Regulation II,* 1819, *and for making certain other amendments in the existing Regulations.*—PASSED *by the Governor-General in Council on the 5th May* 1825.

Preamble.

Whereas the provisions of Regulation VII, 1822 are in force only within the Ceded and Conquered Provinces, in the District of Cuttack and in the *Pargána* of Puttaspore and its dependencies; and whereas there are within the other provinces belonging to this Presidency various *maháls* and tracts for which a Permanent Settlement has not yet been concluded, and it appears to be advisable that the Revenue Authorities should be vested in regard to such *maháls* and tracts with the same powers as belong to the like officers within the Ceded and Conquered Provinces; and whereas the principle of the rules contained in the said Regulation relative to lands held free of assessment or at a *mukarrarí jamá* under special grants is equally applicable to such tenures in all parts of the country, and it appears to be likewise expedient to make provision for the occasional exercise by the Revenue Officers in the lower provinces of the powers specified in the said Regulation for the summary trial of certain suits between individuals subject as therein provided to an appeal to the *Adálat* by a regular suit; and whereas, a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue Authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same *khas* for the purpose of making a *raiyatwar* settlement, where that measure may be deemed advisable; and whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation II, 1819; and whereas, the rules prohibiting the collection of *sayar* duties and the provision contained in section 39, Regulation, IX, 1810 having been considered applicable to several items of *sewai* collections or cesses levied by the *malguzárs* and others for local purposes and according to ancient usage, which it would be injurious to abolish, it appears to be expedient to provide for the continuance of such collections when sanctioned by Government—the following rules have been enacted, to be in force from the date of their promulgation within the provinces belonging to the Presidency of Fort William.

II. *First.* The provisions contained in clause sixth, section 2 and in the thirty-three following sections of Regulation VII, 1822 are hereby extended to all lands (including *jagírs, mukarrarís* and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VIII, 1793 and Regulations II and XXII, 1795, as far as the same may be applicable.

The provisions contained in clause sixth, section 2, and thirty-three following sections of Regulation VII, 1822 extended to all lands not included within the limits of estates for which a permanent settlement has been concluded.

Second. The said provisions shall likewise be in force in all estates, which may now or hereafter be held *khas*, during the period for which they may be so managed.

Such provisions to be in force in all estates held under *khas* management.

Third. The provisions aforesaid shall also apply to the Sundarbans, the hill lands of Bhaugulpore and other extensive forests and wastes not included within the limits of *pargánas, mauzas* or other revenue divisions specified at the time of settlement as belonging to the *maháls* then assessed, as well as to all estates bordering on such forests or wastes.

And to be held applicable to the Sundarbans, the hill lands of Bhaugulpore, and generally to all forests and wastes not specified in the settlement account.

III. It shall be competent to the Governor-General in Council to vest any Collector or other officer, exercising the powers of Collector within the Provinces of Bengal, Bahár, Orissa and Benares, with the several powers specified in section 20, Regulation VII, 1822 in the manner specified in the second clause of that section, within such local limits as may from time to time appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to the several *pargánas* or other local divisions so placed under the jurisdiction of the Collector or other officer aforesaid.

The Governor-General in Council may vest any Collector, &c. with the several powers specified in section 20, Regulation VII, 1822 within such limits as may be considered advisable. In such cases the several provisions contained in section 21, &c. to be considered applicable.

IV. Whenever an arrear of revenue shall accrue on account of any *mahál* for which an engagement may have been taken from the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the *malguzárs* shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate and the arrears cannot otherwise be

Rule of proceeding, when an arrear of revenue on account of *maháls* not permanently assessed may not be paid within one

month after it becomes due, and objections appear to a public sale. Existing engagements may be annulled, and the *mahál* let in farm. If a higher *jamá* be obtained, the excess to be appropriated to the liquidation of the arrear, and to the payment of *malikána* to the *malguzár*.

recovered (on which points the decision of the Revenue Authorities is to be held conclusive), it shall be competent to the Collector or other officer exercising the powers of Collector, with the sanction of the Board and subject to the orders of Government, to annul the existing engagements with the *malguzárs* and to let the *mahál* in farm for such period, not exceeding fifteen years, as the Governor-General in Council may appoint, or to hold the *mahál* under *khas* management for a like period. In such cases, if the *mahál* shall yield a higher *jamá* than that for which the *malguzárs* may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered, and out of any surplus remaining the *malguzárs* shall receive such *malikána*, not being less than 5 per cent. nor more than 10 per cent. on the assessment of the last year of their engagement, as the Governor-General in Council may direct.

[See cl. 6, s. 2, Reg. III of 1828.]

Rules in modification of certain sections of Regulation II, 1819.

V. *First.* The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30 of Regulation II, 1819.

[See cl. 3, s. 10, Reg. III of 1828.]

Collectors, &c. employed in making a settlement of lands, to issue a notification, and to require the appearance before him of all persons holding lands free of assessment, who are to continue their attendance from day to day, and to produce all *sánads* or other writings under which they claim to hold the lands rent-free or at a fixed *jamá*.

Second. Whenever a Collector or other officer exercising the powers of Collector shall visit or be about to visit any *mahál* for the purpose of making a settlement in the manner prescribed in Regulation VII, 1822, it shall be competent to him by a notification to be stuck up in some conspicuous place within such *mahál* and each village thereof (if consisting of several villages) to require all persons holding lands free of assessment or at a fixed *jamá* within or adjoining to the village or villages, in which the lands of such *mahál* or any part thereof may be situated, to appear before him either in person or by *vakíl* within a reasonable time not being less than one month from the date of such notification, at such place within the *mahál* as he may select for holding his office, and to attend him from day to day while he may continue within the *mahál*, with all *sánads* or other writings in virtue of which they may possess the lands or under which the lands may have been or may be claimed to be held free of assessment or at a fixed *jamá*, together with any evidence they may desire to have taken in support of their claims.

Collectors, &c. engaged in the settlement of *mahále*, empowered to have such lands

Third. It shall likewise be competent to Collectors and other officers aforesaid, when engaged in the settlement of any *mahál* under the rules of the Regulation abovementioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands

whether *malguzárí* or *lakhiráj*, belonging or adjoining to the village or villages in which such *mahál* or any part thereof may be situated.

measured without awaiting a previous reference to the Board of Revenue.

Fourth. When the Collector or other officer aforesaid shall have commenced the settlement of any *mahál* in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed *jamá* and to receive their *sánads* and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall on the day preceding that on which he may intend to hold proceedings in the said cases or any of them notify such intention by an *ishtahar* stuck up in his office and in some place open to the public within the *mahál*.

Collectors, upon commencing the settlement of *mahál*, to give public notice by an *ishtahar* one day previous to that on which it is intended to hold proceedings in any of the cases proposed to be investigated.

Fifth. If any person holding land free of assessment or at a fixed *jamá* as aforesaid shall fail to attend either in person or by *vakíl* after notice being given in the manner above prescribed, the Collector shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue to resume the said lands, if they appear to be held on an invalid title; nor shall any person defaulting as above or neglecting to appear and give answer when required to do so in the manner prescribed in Regulation II, 1819 be entitled to stay the resumption and assessment of his lands under the rule contained in the 22nd section of that Regulation: provided further that the rule contained in clause second, section 13, Regulation II, 1819 shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation or in the manner hereinbefore provided.

Collectors empowered to proceed *ex parte* in investigations, should persons fail to attend after due notice given them. And with the sanction of the Board of Revenue, to resume such lands, if they appear to be held on an invalid title. Defaulters neglecting to appear or to furnish the information required from them, not entitled to stay the resumption and assessment of their lands. Proviso.

Sixth. It shall be competent to Collectors and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed *jamá*, under the rules of the fifteenth and following sections of Regulation II, 1819 with the modification hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period. When any Collector or other officer may postpone

Collectors, &c. engaged in making settlements may either complete the investigations of claims under the rules in force, or limit their proceedings to certain points. When investigations are

postponed, Collectors to give the party due notice previous to resuming the inquiry. And if the party should fail to attend, the case may be tried *ex parte*, and the Collector may with the sanction of the Board of Revenue resume and assess the lands.

the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held or, if circumstances prevent him from doing so, he shall before resuming the inquiry give the party one month's notice to attend, and on the failure of any party to attend when so warned the Collector or other officer aforesaid shall be competent to proceed to try the case *ex parte* and with the sanction of the Board to resume and assess the lands.

Collectors, &c. in investigating claims to *lakhiráj* lands to be guided by the provisions of section 15, &c. Regulation II, 1819.

Seventh. Collectors or other officers, who may proceed to investigate claims to *lakhiráj* lands during the progress of a settlement, shall follow the rules of the fifteenth and following sections of Regulation II, 1819 in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Collectors, &c. prohibited from resuming land, even though the parties acknowledge such lands to be liable to assessment, without the sanction of the Board of Revenue. The Board in such cases to direct the assessment of the lands, unless they are held by servants in lieu of wages, which are not resumable without the sanction of Government.

Eighth. No lands shall be resumed by a Collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided; but, on such confession duly attested which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or *zemindárí* servants in lieu of wages, which shall not be resumed without the sanction of Government: provided also that, in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Governor-General in Council.

Specific provisions of Regulations, which the Collectors are to consider applicable to cases investigated by them.

Ninth. The provisions of clause first, section 23, section 25 and section 28, Regulation VII, 1822 shall be applicable to cases investigated by Collectors under the rules of Regulation II, 1819, or under the provisions of this Regulation.

[So much of this clause as provides that s. 25 of Reg. VII of 1822 shall be applicable to cases investigated by Collectors under the rules of Reg. II of 1819 or under the provisions of Reg. IX of 1825, save in so far as it repeals any prior enactment, was repealed by s. 3, Act XX of 1865, so far as applies to the Lower Provinces of Bengal and the North-Western Provinces and those provinces to which the said Act XX may be extended under s. 47, *id.*]

Tenth. It shall not be necessary to use stampt paper for the proceedings held or exhibits filed before the Revenue Authorities in cases originating with a Collector or other officer of Government claiming to assess land held free of assessment: but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers under the provisions of the existing Regulations, to award to witnesses their reasonable charges and to levy the same as well as all costs adjudged by them by the process in force for the recovery of arrears of Government revenue.

Stampt paper for proceedings in cases originating with a Collector declared to be unnecessary. Witnesses to be awarded all reasonable charges, which as well as costs are to be levied by the process in force for the recovery of arrears of revenue.

Eleventh. Persons claiming to hold lands exempt from revenue shall with their petitions of plaint deliver to the Collector or other officer, to whom the same may be preferred, all *sánads* and other writings on which their claim may be founded, and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded. If the claim shall involve only the interests of Government, the Collector shall proceed without delay to investigate the case, giving however eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts. If the claim shall be against any individual singly or jointly with Government, the Collector shall serve him with a notice containing a statement of the demand and requiring his attendance in person or by *vakíl* duly authorized within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and, on the appearance of such defendant, the Collector after allowing him to inspect and examine the claimant's petition of plaint and the writings therein referred to shall call upon him to deliver within the period of seven days a statement of the objections he may desire to urge against the claim. In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim. Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received, giving however as aforesaid eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing: provided that in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or *ikrarnama* to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government or in the suit of an individual and whether the proceedings of the Collector shall be

Specification of documents and particulars to be submitted to the Collector by persons claiming to hold lands free of assessment. Collector, in case the claim should involve only the interests of Government, to proceed in the investigation of it, giving eight days' previous notice to the party. But if the claim be against an individual singly or jointly with Government, the Collector is to serve the party with a notice, containing a statement of the demand, and requiring his attendance with the necessary documents and evidence. Defendant's answer to be given within seven days. In such cases no further pleadings to be required, but Collectors may receive and record such subsidiary

proceedings as are calculated to elucidate the claims. After the receipt of the defendant's answer, eight days' notice to be given of the day on which it is proposed to bring it to a hearing. Proviso in case an immediate decision shall be petitioned for.

held under the provisions of Regulation II, 1819 or under those of this or any other Regulation touching the matter, it shall be competent to the Collector to proceed forthwith to the investigation and decision of the case without issuing any formal summons or notice.

Collectors, &c. if of opinion that any tract of land belongs to Government, and that no individual has *bonâ fide* possession thereof, to require by a notification the attendance before him of all claimants within a given period. And on the appearance of such claimants, to proceed in the investigation of the claims in the mode prescribed by Regulation II, 1819. Proviso in case no person has *bonâ fide* possession of the land. Further proviso.

Twelfth. Whenever a Collector or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government and that no individual has *bonâ fide* possession thereof, it shall be competent to him by a notification, to be stuck up in his *kachahrí*, in the *Zillah* Court and in the *kachahrí* of the *kánúngo*, *Munsif* or *thánadár*, to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time to be fixed by the Board of Revenue not being less than six weeks from the date of such notification; and on the appearance of such claimants to proceed to investigate their claims in the manner prescribed by Regulation II, 1819 for investigations relative to the liability of lands to be assessed as herein modified: provided further that, if the Collector or other officer aforesaid shall decide that none of the claimants have *bonâ fide* possession of the lands in question and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government, until the same shall be adjudged to be private property by a decree of Court on a regular suit: provided also that all such suits, if preferred by one of the claimants before the Collector, shall be dismissed with costs unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule continued in clause second, section 13, Regulation II, 1819 shall be strictly applied to such suits; nor shall any suit be admitted on the part of any person who may not have appeared before the Collector pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's decision: provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

Power reserved to the Governor-General in Council to vest any Col-

VI. It shall be competent to the Governor-General in Council by an order in Council to vest any Collector or other officer, who may be deputed to hold a local inquiry within the limits of any *mahál*, with the same powers

and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such *mahál* or any part thereof may be situated and for the investigation of all claims touching such lands, as by the foregoing provisions are vested in Collectors making settlements in the manner prescribed by Regulation VII, 1822, and also from time to time to depute Collectors or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

lector, &c. deputed to hold a local inquiry within the limits of any *mahál*, with the same powers and authority in regard to the lands held free of assessment in all villages adjoining such *mahál*.

VII. The particulars of all lands held free of assessment within all villages and *maháls*, of which the settlement may be made under the provisions of Regulation VII, 1822, shall be fully recorded in the proceedings of the Collector or other officer making the settlement.

All lands held free of assessment within villages and *maháls*, of which the settlement may be made under Regulation VII, 1822, to be particularized and fully recorded on the proceedings of the Collector, &c.

VIII. Nothing contained in Regulation II, 1819 or in any other Regulation in force shall affect or be considered to affect the provisions contained in section 10, Regulation XIX, 1793, section 11, Regulation XXXI, 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces relative to grants illegally made subsequently to the dates specified in the said rules respectively; and in all cases, in which it shall be established to the satisfaction of the Revenue Authorities that any lands now held free of assessment were subject to the payment of revenue at the dates aforesaid or subsequently thereto and that they have not been thereafter exempted from the payment of revenue under the authority of the Governor-General in Council nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said authorities forthwith to resume and assess the said lands, save and except in cases wherein the revenue of the same may belong to a *zemindár*, *tálukdár* or other *malguzár*, with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation II, 1819 apply to such cases.

Nothing contained in Regulation II, 1819, &c. to be construed to affect specific enactments applicable to Benares and the Conquered Provinces, relative to illegal grants of land made subsequent to the dates specified in the rules respectively.

Lands now held free of assessment, that were formerly subject to the payment of revenue and have not since become exempted by competent authority, may be resumed and assessed by the Revenue Authorities.

Exception in cases where the revenue may belong to a *zemindár*, &c. with whom a permanent settlement has been concluded.

The rules relative to the abolition of the *sayar* duties, and the provisions contained in section 39, Regulation IX, 1810, declared inapplicable to any item of *siwaï* collections or cess levied by *malguzárs*, &c. After the settlement of any *mahál* shall have been made the rules adverted to shall be applicable to all cesses not sanctioned in the mode specified in section 9, Regulation VII, 1822.

IX. It is hereby declared and enacted that the rules relative to the abolition of *sayar* duties and the provision contained in section 39, Regulation IX, 1810 are not and shall not be held to be applicable to any item of *siwaï* collections or cess levied by *malguzárs* and others according to ancient custom, which has been or shall be sanctioned by a Collector or other superior Revenue Authority, not being a tax on the transport, export or import of goods or merchandise, or other tax or duty specifically prohibited; but, after the settlement of any village or *mahál* shall have been made in the manner specified in section 9, Regulation VII, 1822, the rules and provisions aforesaid shall be applicable to all cesses and collections not sanctioned in the manner specified in that section.

[By an award made *de facto* under Reg. VII of 1822 and Reg. IX of 1825 certain land was demarcated in a thakbust map as belonging to A and B jointly, having first been demarcated as belonging to A only. The date of the award was 18th November 1858. B subsequently sued A for the value of certain mangoes, which grew on two out of the five plots composing the land. On the 12th December 1864, this suit was decided in favour of A, on the ground that the land belonged to A and B jointly. On the 11th December 1865, A sued B and three others to set aside the summary award of the 18th November 1858, to have the thakbust map rectified, to confirm his right to the five plots of land and also to confirm his possession thereof. *Held, first*, that with advertence to s. 2, Act VIII of 1859 A was not estopped by the decision in the suit relating to the mangoes upon the point of title which came collaterally in issue; *second*, that with reference to cl. 6, s. 1, Act XIV of 1859, whether he was legally bound by the award or not, he was not entitled to have the thakbust map rectified in a suit commenced more than three years after the award; *third*, that with reference to the same clause a suit by a person in possession (as plaintiff alleged himself to be) to have his title confirmed is different from a suit to recover property and is not barred, that the award and the map do not determine the title of the parties nor are they evidence of title, nor could such an award be executed by virtue of s. 22 of the Act by turning A out of possession. The case was accordingly remanded to try whether A were (as he alleged) in possession, upon which allegation was based his suit for confirmation of title, and which if it were unfounded, he would not be entitled to a declaration of right or of confirmation of possession—*Mohima Chandra Chakravartti* v. *Rajkumar Chakravartti*, I B. L. R. A. C. 1.

An award was made by a Survey Deputy Collector and confirmed by the Superintendent of Survey. An appeal was subsequently made to the Commissioner and to the Board of Revenue, both which authorities declined to go into the merits of the case. The lower Court decided that, because the Commissioner and the Board had summarily thrown out the appeal, the only real award was made by the Survey Officer, and that plaintiff was bound to sue within three years from the date of that award. *Held* that, as the law admitted an appeal from the award of a Survey Officer to his immediate superiors and to the Commissioner and the Board of Revenue, the order of the Board was the final order and the three years' period of limitation was to be calculated from the date thereof—*Krishna Chandra Das* v. *Mohamed Afzal*, I B. L. R. A. C. 10.

The Survey Deputy Collector demarcated certain lands in one plot as belonging to C's land. A and B objected to this. A appealed to the superior Revenue Authorities and his appeal was dismissed. B did not appeal. B and his co-sharers subsequently sued C in the Civil Court to set aside the award and obtain a declaration of right or confirmation of possession. *Held, 1st*, that B

could not benefit by A's appeal so as to compute the three years' period of limitation from the date of the decision of that appeal, but must have sued within three years of the date of the decision affecting himself against which he did not appeal; *2nd*, that it was not competent to B's co-sharers to urge, that not having been parties to the survey award they were not bound to bring their suit within three years of the date thereof, inasmuch as apart from that award they had no ground of action in the said suit—*Tulsiram Das* v. *Mohamed Afzal alias Mirza*, I B. L. R. A. C. 12.

A Deputy Collector made a thakbust map which laid down the boundaries of the estates of A, B and others. A never appeared before the Deputy Collector or pointed out to this officer that the boundary line laid down in the map was incorrect so far as it concerned his estate. B did appear and object to the correctness of the map, but his objections were overruled. A then appealed to the superior Revenue Authorities against the decision in B's case, but his appeal was rejected. The High Court observed that he had no right to prefer such an appeal, not having been a party to the original case. A then brought a suit in the Civil Court under s. 15, Act VIII of 1859, to obtain a decree declaring that the thakbust map was wrong and the subsequent proceedings erroneous. *Held* that it was wholly in the discretion of the Court to make a declaratory decree or not, and that this was not a proper occasion to exercise that discretion, inasmuch as A did not think fit to attend in the first instance before the Deputy Collector, when he was making the map or after he had made it, to point out that he was in error in laying down the line as he did; if there was a cloud on A's title in consequence of the boundary lines being so laid down, this was owing altogether to A's own *laches*, nor was he entitled to put the parties to the expense of a suit in order to obtain a declaratory decree respecting a matter, which if wrong might have been set right by a proceeding before the Revenue Authorities; that it was not necessary to decide whether the map would or would not be admissible in evidence in any future case upon a question of boundary to which A might be a party; when such a case should arise, if the map were admissible, A might show, if he could, that it was wrong. *Held* also that A was not entitled to join the proprietors of three different estates as co-defendants, for it by no means followed that, because the boundary line was wrong as to one of these estates, it was also wrong as to the others and, though A was interested in showing that the whole line was wrong, these defendants were interested only so far as their respective lands were concerned and might each have a different case and different witnesses—*Babú Motí Lal, &c.* v. *Maharájá Bhúp Singh Báhádúr and others*, II In. Jur. 245 and IV R. C & C. R. Civ. Rul. 60.

An adjudication of boundaries by the Revenue Authorities under Act I of 1847 is not final and conclusive, but is like any other judicial award made under Reg. VII of 1822 open to question by regular suit in the Civil Court within three years (cl. 6, s. 1 Act XIV of 1859), *Sheikh Sujad* v. *Syud Salut Ali*, IV N.-W.-P. Rep. Civ. Ap. 140. See now Art. 44, Schedule II of Act IX of 1871.

A preferred a claim before the Settlement Officer at the time of settlement to be registered as proprietor. On the petition of B this claim was rejected, and A and his brother were ordered to be recorded as hereditary cultivators, being referred to the Civil Court for the establishment of their proprietary claims. They failed to institute a suit within three years, and a suit instituted after this time was held barred by limitation—*Sardár Khan* v. *Chandá and others*, I N-W-P. Rep. Civ. Ap. 228.

A the mortgagor, and B the mortgagee appeared before the Collector when making the settlement of a certain estate. A alleged that the property had been merely mortgaged with a remaining right of redemption; B, that, the period of redemption having expired, he had become

absolute owner. The Collector accepted B's allegation, and concluded the settlement with him, referring A to the Civil Court. *Held* that A, not having brought a suit to challenge this award within three years, was barred by cl. 6, s. 1, Act XIV of 1859, when he subsequently sued to recover possession of the property—*Srichand Babú* v. *Malik Chúlhun*, IX W. R. Civ. Rul. 564.

What is an award.

A and B applied for a settlement to be made with them and were opposed by C. C's claim was rejected and the settlement made with A and B. Subsequently A petitioned, stating that she alone was entitled to settlement and that B had used her name without her authority in the previous proceedings for his own benefit. A having instituted a suit more than three years after the award against C, the question arose whether she was barred by Act XIII of 1848 (now see Art. 44, Schedule II of Act IX of 1871). *Held* by a Full Bench that she was not barred, inasmuch as in the previous proceedings there had been no contention between A and B, the contention having been between A and B on the one side, and C on the other—*Kamal Kishen Surkhul and others* v. *Bissonath Chakravartti and others*, Sp. No. W. R. 128—See also *Alliyat Chinaman* v. *Thakur Dass Rai Chaudhri, &c.* II Sev. 829: *Rai Himmat Singh* v. *The Collector of Bijnour*, II N-W-P. Rep. Civ. Ap. 258 (The Full Bench decision of the Calcutta Court was here quoted with approbation): *Kinhar Dansha and others* v. *Gokaran and others*, V N-W-P. Rep. Civ. Ap. 316 (In this case an entry made by a Settlement Officer in the absence of the party affected thereby was held not to be an award, though admissible in evidence for what it was worth as being an entry made in a record framed by a public officer).]

REGULATION XI OF 1825.

A REGULATION *for declaring the rules to be observed in determining claims to Lands gained by Alluvion or by Dereliction of a River or the Sea.*—PASSED *by the Governor-General in Council on the 26th May* 1825.

Preamble.

In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the provinces immediately subject to the Presidency of Fort William and the shifting of the sands which lie in the beds of those rivers, *churs* or small islands are often thrown up by alluvion in the midst of the stream or near one of the banks, and large portions of lands are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time or in subsequent years gained by dereliction of the water on the opposite side. Similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal. The lands gained from the rivers or sea by the means above mentioned are a frequent source of contention and affray and, although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming *churs* or other lands gained in the manner above described. The Court of Sádr Díwání Adálat with a view to ascertain the legal provisions of the Mahomadan and Hindú laws on this subject called for reports from their Law Officers of each persuasion, and on consideration of the reports furnished by the Law Officers in

consequence, as well as of the decisions which have been passed by the Court of Sádr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion or by dereliction of rivers or the sea, the Governor-General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature, to be in force as soon as promulgated throughout the whole of the provinces subject to the Presidency of Fort William.

[A few of the Sadr Díwání decisions may still be usefully referred to. In the case of *Issurchand Rai and others* v. *Ramchand Mukherji* (1 S. D. A. 221), decided on 11th Dec. 1807, the Court held that the whole of the lands claimed as having been gradually annexed by alluvion to the respondent's táluk of Hilalpur were his property. The deserted bed of a public river, which ran between the two properties of Hilalpúr and Maholah was declared divisible between the owners of these estates, each party to be entitled to that part of it which lay contiguous to his own estate in compensation for loss sustained by them from the excavation of a new channel. In the case of *Rájá Grieschand* v. *Maharájá Tezchand* (1 S. D. A. 274, and see XI B. L. R. 277) the plaintiff sued for possession of certain alluvial land which had accumulated by the gradual recession of a river which formed the boundary between the estates of the plaintiff and the defendant, and was afterwards severed from the plaintiff's estate, and left united to that of the defendant by the sudden return of the river to its former course. The Sádr Díwání Adálat disallowed the claim of plaintiff. It may be observed that the land in dispute was alluvial land formed by prior encroachments of the river on the plaintiff's estate, afterwards joined by gradual accession to that estate, and subsequently re-annexed to that of the defendant by the sudden return of the river to its former channel: and both parties admitted that by prescriptive usage the stream of the river, which intersected their estates, was the mutual boundary. In the case of *Radhamohan Rai and others* v. *Súrjanaram Banerji* (1 S. D. A. 319), the plaintiffs and defendant were zemindars of two estates separated by a river; and the river for many years encroaching in a semi-circular form on the estate of the defendant washed away lands from his estate and annexed them to the estate of plaintiffs, thereby forming the *chur* or alluvion in question. The Court held that, on the established principle that land thus gained by the *gradual* retirement of a river under the general rules of alluvion is the lawful accession of the estate to which it is so annexed, the plaintiffs were entitled to the *chur* in question. In *Kúnwur Harri Nath Rai* v. *Mussamat Jyedúrga Barwain* (2 S. D. A. 269) a claim was made to certain alluvial land on each side of which the Barhamputer flowed, and it was decided that the most equitable decision was to give to the parties respectively the land adjoining to their estates. The main channel of a river may by custom constitute the boundary line between two estates; but in this case the evidence was contradictory on this point, each party declaring that the branch which flowed under his boundary was fordable, while the other branch was broad and deep. In *Zibú Nisa* v. *Persan Rai* (3 S. D. A. 316) a claim was made to certain lands alleged to have been washed away by the stream from the plaintiff's estate, but judgment was given in favour of the defendants to whose estate they had become gradually annexed. In *Ramkishen Rai* v. *Gopi Mohan Babú* (3 S D. A. 340) the Senior Judge of the Provincial Court of Dacca held that, inasmuch as the lands in dispute were surrounded by the plaintiff's zemindárí, they belonged to him conformably to established usage in such cases, and accordingly ordered that he should be put in possession.]

Claims and disputes relative to alluvial lands to be decided by immemorial and definite usage, when such shall be clearly recognized an established.

II. Whenever any clear and definite usage of *shikast paiwast* respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Custom to be a local custom.

[The language of the Regulation implies that the custom to be proved is a local custom, and it lies upon the person setting up and relying upon such a custom to prove it. A proceeding amounting to a decision that such a custom obtains on the banks of the Gogra affords no evidence that a similar custom exists at a certain place on the banks of the Ganges. A kánúngo's evidence was also held too slight to prove such a custom. Failing such proof, the appellant was held entitled to succeed, as having established every circumstance necessary to bring his case within the second clause of section 4—(*Rai Manik Chand* v. *Madhoram and others*, XIII Moo. In. Ap. 1, and III B. L. R. Priv. Coun. 5).

Custom of Dhardhúra

In the case of *Nasírudín Ahmed and others* v. *Mussamat Umadí and others* (IV N-W-P. Rep. Civ. Ap. 1), the Judge of the lower Court was directed to ascertain the extent of the local custom of *dhardhúra*[1] by evidence derived from similar claims which had been admitted or disallowed, and by a comparison of the particular circumstances of such cases. In *Dúlhin Harpal Kunwarí* v. *Ubruck Singh and others* (IV N-W-P. Rep. Civ. Ap. 18) the Court observed that the mere fact of the river being the constant boundary between two districts could not, in the absence of any custom of *dhardhúra*, affect the rights of riparian proprietors as created by the provisions of Reg. XI of 1825. See the custom of *dhardhúra* discussed also in *Mussamat Raní Katiyání* v. *Sheikh Mahomed Sharf-úd-dín*, IV N-W-P. Rep. Civ. Ap. 189, and *Isrí Singh and others* v. *Mirza Sharf-úd-dín and others* (1 N-W-P. Rep. N. S. 224.) In this last case it was sought to apply this custom to land disjoined by a sudden change in the channel of the river, but still preserving its identity, and it was intimated that it would take strong evidence to carry the application of the custom this length, and to other than strictly alluvial lands.

In *Babú Bissessarnath* v. *Maharájá Mohessur Baksh Singh Bahadur* (XI B. L. R. 265) it was sought to rely upon a custom that where land, which had once been alluvial, lies between two branches of a river or between two rivers, and from time to time the volume of water shifts, so that alternately one of these channels is deep and the other is fordable, then the whole of such intermediate land belongs to the land-owner on the side of the channel which at any given time is fordable; or, in other words, that the ownership and right of possession of the whole intervening tract of land shift with the volume of the water, always attaching to the riparian proprietor on the side of the channel which happens for the time being to be fordable. Their Lordships of the Privy Council, observing that such a custom appeared to be based on the hypothesis that at all times one channel is deep and the other fordable, because it could not apply if both were deep or both were fordable, intimated that they would require to be satisfied by very clear and distinct evidence of its existence, since the operation of such a

[1] *Dhardhúra* means the boundary formed by a stream.

custom must be to render the rights of property fluctuating and precarious. A question was raised whether a custom of this description falls within the terms of the above section; but their Lordships did not consider it necessary to decide this point, as they came to the conclusion on the evidence that no "clear and definite usage" such as would support the plaintiff's case has been established. It was also remarked in this case that it by no means follows that, if a certain fluctuating boundary, *viz.* the course of a river, is adopted between two zillahs or districts, its adoption for that purpose affects the rights of landed proprietors in those zillahs: and the case of *Rai Manick Chand v. Madhoram* (above) was quoted as an authority for the proposition that there may be a fluctuating boundary between zillahs, which by no means affects the rights of landed proprietors.

As to a custom that the main channel of a river is the boundary between two zemindáris, see also *Maharájá Rajendra Partab Sahi* v. *Lalji Sahú and others*, XX W. R. 427.]

III. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Where no such local usage may be established, the claims to be decided by the rules declared in the following sections.

IV. *First.* When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a *zemindár* or other superior landholder, or as a subordinate tenure by any description of under-tenant whatever: provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue, to which it may be liable under the provisions of Regulation II, 1819 or of any other Regulation in force; nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a *khúdkhast raiyat* holding a *maurasí istímrarí* tenure at a fixed rate of rent per *bíghá* or any other description of under-tenant liable by his engagements or by established usage to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

Land gained by gradual accession from the recess of a river or the sea, to be considered an increment to the tenure of the person to whose estate it may be annexed. Proviso.

[In order to come within this clause, the land must be gained by *gradual accession*, by gradual, slow and imperceptible means. In consequence of the supposed necessity of the case and the difficulty of having to determine, year by year, to whom an inch, or a foot, or a yard belongs, the accretion by alluvion is held to belong to the owner of the adjoining land—*Lopez* v. *Madhan Mohan Thakur*, *post*. This is in accordance with the Roman Law. "Moreover the alluvial soil added by a river to your land becomes yours by the law of nations. *Alluvion is an imperceptible increase*, and that is added by alluvion, which is added so gradually that no one

Accession must be gradual.

can perceive how much is added at any one moment of time," (Justinian, lib. ii tit. i, s. 20, p. 176 of Sandars' edition). The Code Napoleon says (s. 556):—"The accumulations and increments, which form themselves successively and imperceptibly against the riparian lands of a river or stream, are called alluvion." The principle of Roman law upon which this depends is called *accessio*, which is used by commentators not only for the increase itself, but also for the mode in which the increase becomes the property of the owner of the thing to which it is an increase. Thus Fleta says:—"We acquire a right to things according to the law of nations by *accession*. That which a stream has added to our land by alluvion, for instance, belongs to us by virtue of the same law" (lib. iii, c. 2, s. 61). The proprietors of an estate divided it into different *pattís*, perfectly separate and independent of one another. No land was left common to all the *pattís*, though the *pattís* contained lands common to the shareholders within them. Each *patti* was liable for its own amount of revenue. One plot of 250 *bíghás* named *Tumlík* with an annual jamá of Rs. 202 was granted to certain priests in recognition of their services. For the whole *táluk* or estate one *khewat* or record of rights was drawn out, in which it was expressly stated that the tenure of Tumlík was not to be *zemindárí*. In 1846, sixty bíghás of alluvion, having been created, were settled with the proprietors or *zemindárs*. This land was however subsequently cut away. In 1864 the river in one season threw up 70 *bíghás* of arable land in front of the Tumlík tenure. The zemindárs proceeded to take up this land for the cultivation of melons, but the holders of the Tumlík tenure ousted them, claiming the land as an increment to their tenure under cl. 1, s. 4, Reg. XI of 1825. *Held* that this claim could not be sustained, as the land had not been gained by *gradual accession*, had not been gained by alluvion either gradually or suddenly, but appeared rather to have been land existing as waste land, subject to inundation in certain years or at certain seasons, which had been in one year rendered culturable by the action of the river—*Ramjiawan Rai and others* v. *Díp Narain Rai and others*, N-W-P. Rep. I F. B. 78.

"The Bhagiruttí is a public navigable stream. The plaintiff is a riparian proprietor. The ground in dispute has partially formed opposite plaintiff's estate, and the Judge calls it an accretion. But he says that it is a worthless piece of land which is still in the bed of the river, which was found to be in the water in 1863, and which will be again submerged as soon as the river rises in the wet season. This being so, we think that there is no accretion such as to make the land private property. Till the land rises beyond ordinary high water mark in such a way as to become fit for cultivation, it is part of the river bed and as such public property. And when it does so rise as to become private property, the public will still be entitled to the same access to the river which was enjoyed before the new land was formed on the bank . . . . There can be no private property in the land the subject of suit, it being merely a strip, which in the dry season only is left dry between the permanent bank and the river"—*Mahárání Odhirání Narain Kúmárí* v. *The Náwab Nazim of Bengal*, IV W. R. Civ. Rul. 41.

Who entitled to accreted land, and nature of right acquired therein.

A *lakhirájdár* has a right to gradual accretions to his *lakhiráj* property, there being nothing in Reg. XI of 1825 to deprive him of such right—*Pathíram Chaudhrí* v. *Kirthinarain Chaudhrí*, I W. R. Civ. Rul. 124. A certain estate was resumed, but before settlement the Collector granted *tickets* to certain parties, which enabled them to possess and cultivate the lands, but did not bind the settling zemindár, creating merely a tenancy from year to year liable to be determined after any year at the pleasure of the landlord. *Held* that such a tenancy is not included within the terms of cl. 1, s. 4, Reg. XI of 1825, which refers only to under-tenants, intermediate between the zemindár and the raiyat, and *khúdkásht* or other raiyats who may by the nature of the tenure and by engagement possess some permanent interest

in their lands—*Zahírudín Paikar and others* v. *J. D. Campbell and others*, IV W. R. Civ. Rul. 57. In *Bhagabat Prasad Singh* v. *Dúrga Bijai Singh* (VIII B. L. R. 73) the Court seemed to think that even a tenant-at-will, as long as he remained in possession of his holding, would be entitled to hold also any accretion thereto.

"The alluvial accretion is annexed to the tenant's holding, and, if in his original holding he had acquired a right of occupancy, he will enjoy a similar right in the alluvial land, although he may not establish that he has held such alluvial land for twelve years"—*Udit Rai* v. *Ram Gobind Singh and others*, III N.-W.-P. Rep. Civ. Ap. 206. Alluvial land formed in front of and contiguous to an old mâfí holding (which had been resumed and settled with the *ex-mâfídars*, the *jamá* being paid through the zemindár) was held, in the absence of any custom to the contrary, to be an increment to the holding of the *ex-mâfídars* under cl. 1, s. 4, Reg. XI of 1825—*Fazl-úd-dín, &c.*, v. *Mussamat Imtiyaz-ún-nissa*, IV N-W-P. Rep. Civ. Ap. 152.

An *ijáradár* may or may not be entitled to take possession of and assess lands which accrete to his *ijára* lands after his obtaining the *ijára* (farming lease), but he is not entitled to accretions of an older date than his own farm—*Jaur Ali Chaudhrí* v. *Prankishto Rai and others*, IV W. R. Civ. Rul. 65. A person held certain land under and paid rent to Government. *Held* that he had no right to sue a zemindár to whom he did not pay rent for a lease for land which accreted to his holding—*Kishen Dhan Adhikárí* v. *J. D. Campbell and others*, Sp. No. W. R. 22.

As to the liability of *dependent táluqdárs* to an increase of rent in respect of accretions by alluvion to their *táluks*, see *ante*, p. 214. Rent is as a general rule payable in respect of an accretion to a subordinate tenure—*Jagat Chandra Datta and others* v. *Paniotty and others*, II R. C. & C. R. Rent Rul. 45: VI W. R. Act X Rul. 48, and V R. C. & C. R. Civ. Rul. 227.

Some alluvial land accreted to an estate belonging to A and numbered 667 on the *tanjih* or Collectorate roll of revenue-paying estates. A temporary settlement was made with A for this alluvial land, which was numbered 3148 on the *tanjih*. In 1865, A sold to B all his rights in No. 667, describing it by that number and as the *Nizámat mahál*, making no allusion whatever to the alluvial land. At the same time he sold all his right and interest in No. 3148 to C. The temporary settlement of the latter estate expired in 1867, and upon this B sued C to establish his right to the permanent settlement of this latter estate No. 3148. *Held* that B's claim was without the slightest foundation either in law or justice, that No. 3148 having been completely formed, having been assessed and settled as a separate estate with a separate *jamá* had become for all purposes a distinct estate capable of being sold or otherwise dealt with as such by the owner of the estate to which it had originally accreted—*Khub Lal* v. *Ghina Hazari and others*, II B. L. R. A. C. 339.

Government having dispossessed the proprietor in possession of certain *chur* lands, and having failed to establish a claim to such lands was held liable to account for all the collections made by its officers during the period of wrongful ouster, and it was held no answer to such a suit that part of the lands were liable to be assessed with revenue as an increment to plaintiff's estate—*Rani Surnamáyí* v. *The Collector of Rungpore and others*, Sp. No. W. R. 5.

A sued B in the Court of district X for certain land, which he alleged was an accretion to his estate in that district. B contended that it was part of his estate in district Y. A succeeded and obtained a decree, the land being held to be an accretion to his estate in district X. B then brought another suit against A in the Court of district Y. *Held* that the finding in the first suit was a bar, and that the Court in district Y, having regard to s. 14 of Act VIII of 1859, had no jurisdiction—*Pahalwan Singh and others* v. *Maharájá Maheshar Bakhsh Singh Bahadur*, XII B. L. R. 391.

When a suit brought in respect of certain alluvial lands did not include the whole of the lands then in existence, a subsequent suit for the land not so included was dismissed under s. 7, Act VIII of 1859 as not maintainable in consequence of the ground of action having been split—*Babú Meghbaran Singh and others* v. *Maharájá Mahessur Baksh Singh Bahadur*, V W. R. Civ. Rul. 211.

A decree as to an eight-anna *share* of a *chur* was held to be good evidence though not to have the effect of an estoppel in a subsequent suit between the same parties—*Nazimadín Ahmed Chaudhrí and others* v. *J. P. Wise and others*, V W. R. Civ. Rul. 282.

A and B possessed estates on the river bank conterminous and somewhat intermixed. A *chur* was formed opposite both estates, and was claimed by both A and B. Eventually they made a formal compromise, dividing the *chur* equally between them. Some years afterwards Government resumed the lands and proceeded to assess them, recognizing the above division. A and B having declined the settlement were paid malikána in equal proportions. Subsequently B's estate was sold for arrears of land revenue and was purchased by C, who alleged that he was not bound by the compromise entered into by A and B and claimed a very much larger portion than half of the *chur*. *Held* that C was not bound by the compromise, and that he had a right to re-open the question of who was entitled to the *chur*—*Beikantnath Chatterjí* v. *Amíranissa Khatún, &c.*, II W. R. Civ. Rul. 191, and II Sev. 88-1.

See Note to Clause 5, *post*.]

When a river by a sudden change of its course may break through and intersect an estate, the lands so separated being clearly recognized shall remain the property of the original owner.

Second. The above rule shall not be considered applicable to cases in which a river by a sudden change of its course may break through and intersect an estate without any gradual encroachment, or may by the violence of its stream separate a considerable piece of land from one estate and join it to another estate without destroying the identity and preventing the recognition of the land so removed. In such cases the land on being clearly recognized shall remain the property of its original owner.

[The Roman law says—"But if the violence of a river should bear away a portion of your land and unite it to that of your neighbour, it undoubtedly still continues yours" (Justinian, lib. ii, tit. i, s. 21, p. 177 of Sandars' edition). This is known as *avulsion*, which is defined by Blackstone to be where by the immediate and manifest power of a stream the soil is taken suddenly from one man's estate and carried to another's. Where there has been an accretion or accession of soil to a person's estate, the *primâ facie* presumption of law is that such accretion has been made by *alluvion* and not by *avulsion*, and the burden is thrown upon the party claiming by avulsion of showing that such soil so joined has been suddenly severed from his own estate and been transferred to such other estate. And the reason of this is clear. A forcible and sudden breaking away of land is an unusual phenomenon and therefore the presumption from nature is, that every accession of land is an alluvion until the contrary is established.]

Churs or islands thrown up in a large and navigable river, (the channel between the islands and the shore not being fordable,) to be at the disposal of Government.

Third. When a *chur* or island may be thrown up in a large and navigable river (the bed of which is not the property of an individual) or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall according to established usage be at the disposal of Government. But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the

person or persons, whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

But if fordable, to whom they shall belong.

[In the case of *J. P. Wise and others* v. *Amiranissa Khatún* (II W. R. Civ. Rul. 34) it was decided that, if a *chur* be surrounded by water fordable at any point, the owner of the land to which the *chur* adjoins has a *primâ facie* title to it under cl. 3, s. 4, Reg. XI of 1825, and that, having regard to the provisions of Act IX of 1847 (*q. v.*) the *status* of the land, not when first formed, but at the time of re-survey, is to be looked to. In *Kowar Poresh Narain Rai* v. *Messrs. R. Watson & Co.* (II R. C. & C. R. Civ. Rul. 9, and V W. R. Civ. Rul. 283), this decision was referred to with approbation. It was also remarked that the Regulation does not say "shall belong to Government," but that Government may dispose of it. If however Government does not take possession or dispose of it for a year or so, and during that time the channel between the island and the adjoining land becomes fordable, the right of Government to dispose of it would cease and it would become an increment to the tenure of the person holding the land most contiguous to it, and the person in possession of the contiguous land would have the same interest, and the same interest only in the accretion as he had in the land to which it became an increment—see also *G. P. Wise, &c.* v. *Múlvi Abdúl Ali, &c.*, II W. R. Civ. Rul. 127, in which the effect of Act IX of 1847 was discussed; *Campbell, J.* remarking that s. 7 must be taken to suspend for ever and in fact take away the right of Government to assert a right of ownership in any lands as islands, if they were not found to be islands at the time of the re-survey. These cases must however be regarded as overruled by a later decision of a Full Bench in which it was held that the criterion for deciding whether Government or the riparian proprietor is entitled to a *chur* or island is the state of circumstances at the time of its formation, and not the state of things at any subsequent period. It is a question of fact in each case what is the precise time when a *chur* can be properly said to be thrown up or formed—*Mussamat Badranissa Chaudhrani* v. *Prosonno Kumar Bose*, VI B. L. R. 255. The following cases may also be referred to—*Kalinath Rai Chaudhrí and others* v. *J. Lawrie and Government*, III W. R. Civ. Rul. 122: *The Collector of Tipperah* v. *Durga Persad Paray and others*, Suth. Rep. to July 1864, Civ. Rul. 302 (Here it was *held* that the fact of the river subsequently becoming fordable between the *chur* and certain Government land did not divest in favour of Government the right of property which had once vested in the defendant). In *Nabin Kishor Rai* v. *Jagesh Persad Gangapadhya* (VI B. L. R. 349), it was held that the Legislature did not intend to give the riparian proprietor the property in an island formed in a bed of a navigable river, when the channel which intervenes is under ordinary circumstances and at the most favourable season unfordable at least sixteen hours out of every twenty-four.

Fordability at what point of time.

In *Khelat Chandra Ghose* v. *The Collector of Bhagulpore and others* (Suth. Rep. to July 1864, Civ. Rul. 73), *Norman, J.* said—"We are of opinion that the words "at the disposal of Government" mean that the property in and absolute right of disposal of the same is vested in the Government; and not, as contended for the appellants, the Government have merely a right to the revenue. The Legislature throughout the Regulation is dealing with the right of property in newly-formed lands and not merely providing for the right to assess revenue upon them."

At the disposal of Government.

In the case of *Gholam Ali Chaudhrí and others* v. *Gopal Lal Thakúr and others* (IX W. R. Civ. Rul. 401, and V R. C. & C. R. Civ. Rul. 251) it was admitted that the *chur*, a share of which the plaintiffs sought to obtain by bringing the suit, first made its appearance as an island surrounded by unfordable water in a large navigable river and was at that time by law at the disposal of Gov-

ernment. Afterwards the channel between it and the shore of the river became fordable at a certain part. The Government did not assert its right previously to the occurrence of this event, and subsequently thereto it declined to do so. *Pkear, J.* said—"Under these circumstances, as soon as the channel became fordable, according to Reg. XI of 1825, s. 4, cl. 3 the *chur* became an accession to the land of the person whose estate on the bank of the river fell under the description of being "most contiguous" to it. We think this somewhat vague expression is intended to comprise only the estate with which the *chur* comes into contact, so to speak, along the length of the fordable part of the channel. It does not embrace estates which may be on the river bank opposite some portion of the *chur*, but with an unfordable channel lying immediately between them and the *chur*. The Regulation is silent as to how the *chur* is to be partitioned between the estates in the event of its being an accession to more than one, but no difficulty on this account arises here because the Lower Appellate Court has found as a fact that, when the annexation to the river bank took place, the fordability of the channel did not extend beyond the defendant's frontage. Consequently, with the interpretation just given to the Regulation, the whole *chur* became an accession to the defendant's land and part of his tenure, If this be so, no portion of it would afterwards cease to belong to him merely by reason of the deep water between it and the plaintiff's estate becoming shallow and fordable. The silting up of the channel could not have the effect of transferring the ownership from the one person to the other. Again after the *chur* had by the first occurrence of the fordable channel become part of the defendant's property, all further accretions to it, if gained by gradual accession, would also belong to him, even though the result would in the aggregate be a prolongation of the *chur* in front of estates on the river bank not belonging to the defendant." See also *Mussamat Tahira and others* v. *The Government*, VI W. R. Civ. Rul. 123; VII W. R. Civ. Rul. 514, and II R. C. & C. R. Civ. Rul. 129.

What estate is to be regarded as most contiguous.

In the case of *Eckauri Sing and others* v. *Hiralal Seal and others* (II B. L. R. P. C. 4, and XII Moo. In. Ap. 136) the Judicial Committee of the Privy Council remarked as follows—"This is a case of a claim to land washed away and re-formed in the bed of a *navigable* river, the ownership of the soil of which is not commonly in the riparian proprietors of its banks, and which is not proved in this case to have belonged to the predecessor in title of either disputant. The re-forming of the land in such a stream after a considerable interval and frequent floods, is not *primâ facie* to be ascribed to a loss from any particular portion of territory, nor is the land which has been removed by a sudden avulsion reclaimable unless the circumstances supply evidence of identity, which is wanting in the case before us. This re-formed land is not ascribed to avulsion, and several years elapsed between the loss of the plaintiff's land and the appearance of this *chur*. *The title by accretion to a new formation generally is not founded on equity of compensation, but on a gradual accretion by adherence to some particular land which may be termed the nucleus of accretion.* The land gained will thus follow the title to that parcel to which it adheres. It is obvious therefore that such a title is not established by mere proof of general inclusive boundaries of land at a time long preceding the actual formation of the *chur*, since the lands, that have such a fluctuating boundary as a tidal river and which are themselves subject to loss and gain of quantity by acts independent of the owners' concurrence and which may pass from side to side of the river boundary, have not the ordinary element of fixedness which belongs to immovable estate in the common course of things. A detached *chur* (independent of usage) in such a stream would belong to neither riparian proprietor, and the circumstance that it was subtended by the land of one would not be enough to entitle him to it . . . . . Acquisitions of the nature of this *chur* are often doubtful in their origin, they must depend

upon oral testimony which time is constantly destroying or impairing, and it is often hard to say who is the person to whom the law would ascribe the legal ownership of them. The mere cultivation of them, like that of waste or jangal land, carries with it no *primâ facie* character of usurpation or wrong."

The Calcutta High Court in a case before it remarked on the subject of possession as follows—"A *chur*, we observe, especially one which has the river Puddah on three sides of it, is necessarily a shifting or transitory piece of property; possession is only *primâ facie* evidence of title, so long as the *chur* is possessed by the claimant; and if an occupant of a *chur* allow such a property to slip away from him into the hands of another, he cannot put the new possessor to the proof of his title, until he, the claimant out of possession, has proved his own: nor can he justly call on us to shift the burden of proof from his own shoulders to those of the party now in possession, because he himself at a former period was held to be in possession by a Court competent only to decide on the fact of possession and on nothing else"—*Shama Sunker Chaudhrí and others* v. *Múnshí Mahomed Ismail*, II Sev. 943.

The judgment of the Court of first instance in a case turning upon the disputed position of *chur* lands, given after a careful local investigation, was upheld by the Privy Council against the decision of the High Court founded on inspection of the maps and on the arguments adduced before it—*Raní Sarat Sundarí* v. *Babú Prasanna Kúmar Thakur*, XIII Moo. Ind. Ap. 607, and VI B. L. R. 677.

Act IX of 1847.

It will be useful to notice here the provisions of Act IX of 1847.—Section 1 repeals, so far as relates to Bengal, Bahár and Orissa, all parts of the Regulations of the Bengal Code which establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof; and directs that all such investigations pending before the Collectors and Deputy Collectors in the said provinces be discontinued, and that no measures be afterwards taken except under the provisions of the Act. By section 2, "Orissa" includes only so much of Orissa as is subject to the Government of Bengal. Section 3 enacts that the Government may, in all districts or parts of districts of which a revenue survey may have been or may hereafter be completed and approved by Government, direct from time to time, whenever *ten years* from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea in order to ascertain the changes that may have taken place since the date of the last previous survey, and cause new maps to be made according to such new survey. Section 4 declares the dates on which the surveys of certain districts and parts of districts shall be taken to have been approved. Section 5 provides that, whenever it appears from such new map that land has been diluviated from a revenue-paying estate, the Revenue Authorities shall make a proportionate deduction from the revenue payable to Government. Section 6 provides for the assessment of land added by alluvion to a revenue-paying estate. *Section 7 provided that when, on inspection of such map, it appeared to the Revenue Authorities that an island had been thrown up in a large and navigable river, liable to be taken possession of by Government under cl. 3, s. 4, Reg. XI of 1825, the said authorities should take immediate possession of the same for Government, and assess and settle it, reporting to the Board whose orders should be final.* Section 8 enacted that the Act was not to affect suits regarding alluvial lands then pending in appeal or open to appeal. Section 9 enacts that, except as regards the proprietary right to islands, no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of any thing done in good faith in the exercise of the powers conferred by the Act. The whole of these provisions are still in

Decennial Survey.

Act IV (B.C.) of 1868.

force except section 7, which has been repealed by section 1, Act IV (B.C.) of 1868. Section 2 of this Act declares that, when any island shall under the provisions of cl. 3, s. 4, Reg. XI of 1825 be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island and shall be equally at the disposal of Government. Section 3 enacts that whenever it appears to the local Rèvenue Authorities that an island has been thrown up in a large and navigablè river liable to be taken possession of by Government under cl. 3, s. 4, Reg. XI of 1825, the said authorities *shall take immediate possession of the same for Government* and shall assess and settle the land according to the rules in force in that behalf, reporting to the Board, whose orders shall be final, provided that any party may contest such taking possession in the Civil Court. Section 4 enacts that the fact of the channel between such island and the mainland subsequently becoming fordable shall not affect the right of Government. Sections 5, 6, 7 and 8 provide for making ways, paths and roads across the island on the application of any one having an estate or interest in any part of the riparian mainland, the expense to be equally divided between the applicant and Government, and such ways, paths and roads to become public.

Act IX of 1847 refers to re-surveys of zemindárí (settled?) lands which the *Government, as such*, may cause to be made at certain intervals and to assessments consequent on the changes ascertained by such re-surveys; but does not interfere with the rights of the Government *in its capacity of a zemindár* to take possession of and assess all accretions to its own estates under Reg. XI of 1825—*Obhai Charan Chaudhrí and another* v. *The Collector of Dacca*, IV W. R., Civ. Rul. 59. It does not alter the substantive law of Regulation XI of 1825, but merely contains provisions for the investigations regarding the liability of lands to assessment and the rights of Government—*Mussamat Badranissa Chaudhrain* v. *Prosonno Kúmar Bose*, VI B. L. R. 225. The word "added" in s. 6 means added to the estate as it is depicted in the survey map—*Ram Jewan Singh and another* v. *The Collector of Shahabad*, XIX W. R. 127: *Diwan Ramjewan Singh and another* v. *The Collector of Shahabad*, XVIII W. R. 64. The Act was intended to apply only to land gained from the sea or from rivers by alluvion or dereliction, not to land gained from another proprietor by the mere changing of the river's course. Where a piece of land gained in this latter way from A's estate was settled with B as an addition to B's *zemindarí*, it was held that A might sue in the Civil Court to recover his property from those who kept him out of possession—*The Collector of Múrshedabad* v. *Rai Dhanpat Singh Bahadúr and others*, XXIII W. R. 38, and XV B. L. R. 49.

As to a title by re-formation on an old site prevailing over a claim by Government to land thrown upon as island—see *post* Note to cl. 5.]

Claims to *churs* &c. &c. thrown up in small and shallow rivers how to be determined.

Fourth. In small and shallow rivers, the beds of which with the *jalkar* (right of fishery) may have been heretofore recognized as the property of individuals, any sand-bank or *chur* that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

[This clause vests in the Government only the island or in other words the land surrounded by water, and not the unfordable channel of the river by which the island was formed. Though an island or land thrown up and surrounded by a river may be vested in Government, it does not follow that, if the river which separates the island from the main land dries up after the island has been resumed by Government, the bed of the river becomes the property of Government

in cases in which the bed of the river is not gained as an accretion to the island by gradual accession within the meaning of cl. 1—*Rani Surnamayi* v. *Jardine, Skinner and Co.*, XX W. R. 276.

In the case of *Chandra Mani Chaudhrain* v. *Srimati Chaudhrain* (IV W. R. Civ. Rul. 54) the bed of the river belonged to one person while the *jalkar* or right of fishery belonged to another, and it was contended that the latter fact took the case out of the above clause. The High Court however did not approve this contention, remarking that the normal state of things doubtless was that the *jalkar* should follow the bed of the river; that the fact of Dinajpore being an exception to the rule did not interfere with the essential portion of the clause, which is that in small and shallow rivers, the beds of which are private property, *churs* thrown up belong to the proprietor of the *bed* of the river. This is opposed to the doctrine laid down in cl. 1, s. 4, which enacts that in rivers not small and shallow and in the beds of which the ownership of individuals has not been recognized but such ownership remains in the public, *churs* thrown up are an increment to the tenure of the riparian owner to whose land they are annexed. In the one case the ownership of the bed of the river carries with it the right to the accretion; in the other, riparian ownership does the same.

In the case of *J. J. Grey and others* v. *Anand Mohan Maitro and others* (Suth. Rep. to July 1864, Civ. Rul. 108) plaintiffs sued to establish the right to fish in certain *damurs* or gulfs left in the old bed of a river. It appeared that in the rains the river completely overflowed the adjacent lands, covered the *damurs* with water and obliterated every trace of their existence. The plaintiffs owned the land surrounding the *damurs*, while the defendants owned the *jalkar* or right of fishing in the river. The Court referred to Justinian's Institutes, bk. ii, tit. i, para. 23:—"If a river leaving its natural channel flows in another course, the former channel belongs to them, who possess the farms on its banks, to each man according to the breadth of his land on the bank; and the new channel is subject to that law which governs the river, that is, it becomes public. But if after some time the river returns to its former channel, the new channel again belongs to them who have the farms on its banks." Applying these principles, the Court remarked that, if the river simply changed its course and there was nothing to modify the conclusion which ought to be drawn from the simple fact, the old dry course of the river must be taken to have become private property, and as incident to and part of the same the owner of the soil is entitled to all *bils* or ponds, gulfs or *damurs* in which water remains, but which do not communicate with the river except in the time of floods, and he could have claimed a settlement with the Government in respect of any *jalkar* in the same. The right of the defendants to the fishery in the water in question, being merely granted out of and a part of the right of the Government to the river, can no longer exist where the right of the Government itself is gone. The fact that the *damurs* are supplied with water by the overflowing of the river is not material. See *Gopinath Rai* v. *Ramchandra Tarkalanka*, I Sel. Rep. 228. But if in forming the course now left dry the rain made its way through an ancient *bil*, the *jalkar* in which was settled not with the owner of the surrounding soil but with the defendants or their predecessors in estate, and the damúrs in question or any of them can be recognized as being in fact parts or the remains of that ancient bil, the defendant's right to the *jalkar* in the same will be established." In the case of *Rájá Pertab Chandra Singh* v. *Anadapersad* and *Raikissen Banerji* (II Sev. 754) plaintiff claimed a certain *nálá* on the allegation that the Ganges had some years previously cut into his estate, and having afterwards receded had created a space between his land and the river partly land and partly shallow pieces of water, which latter he sued to recover from defendant, who maintained that the water was part of his *jalkar* which had

been permanently settled with him. The Court observed that it did not follow, because plaintiff was the rightful owner of the land as an accretion to his estate, that he was also the rightful owner of the water adjoining the accreted land; that, if the land surrounding the water on all sides were his property, there might be *primâ facie* grounds for regarding the water also to be his rightful property; but, as it was admitted that this was not the case, defendant being in possession could not be disturbed.]

Disputes relative to lands gained by alluvion or by dereliction of a river or the sea, not provided for by the provisions of the present Regulation, how to be adjusted.

Fifth. In all other cases, *viz.* in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice in deciding upon such claims and disputes shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case or, if not, by general principles of equity and justice.

Title to land re-formed on old site.

[In a suit brought to recover 612 bíghás of land the appellant alleged that it was part of his mauza A. The respondent on the other hand alleged that it belonged to him, being part of his mauza B. The whole of the district adjoining the land in dispute as well as the land itself was flat and very liable to be covered or washed away by the waters of the Ganges, which frequently changed its channel. The land in dispute was inundated about the year 1787; it remained covered with water till about 1801; it then became partially dry till the year 1814, when it was again inundated. After this period it once again re-appeared above the surface of the water, and by the year 1820 had become very valuable property. According to the issues raised by the parties the whole question in the case was this—"was or was not the land in dispute shown to be part of the mauza A"—to the decision of which question the ownership of the adjoining land, though essential in the consideration of a title founded on accretion, was of little or no value. The Privy Council having found this issue in favour of the appellant reversed the decision of the lower Court with costs—*Mussúmat Imam Bandí and Wajid Ali Khan* v. *Har Govind Ghose*, IV Moor. In. Ap. 403. See also *Todí Singh* v. *I. S. Gardner*, III N-W-P. Rep. Civ. Ap. 342.

The condition of certain lands having become entirely altered by diluvion and all former landmarks being destroyed, a deep and broad running stream flowing between the lands of both parties, it was held that, when new land was formed by alluvion on the same site, the old state of things could not be taken into consideration so as to found an argument of limitation thereupon, and the condition of the land as re-formed could alone be looked at—*Sharat Súndarí Debí and others* v. *The Government and others*, III R. C. & C. R. Civ. Rul. 57, and VII W. R. Civ. Rul. 42.

Contrary decisions on the subject.

Plaintiff's village and part of defendant's village were carried away by diluvion. Some twenty years afterwards the river gradually receded, and a *chur* was formed by gradual accession to defendant's village on the site previously occupied by the land of both. Plaintiff claimed such portion as had been formed on the site of his village formerly diluviated. Defendant claimed the whole as an increment to his tenure gained by gradual accession within the meaning of cl. 1, s. 4, Reg. XI of 1825. *Held* by a Full Bench that this claim must be allowed; that, with reference to plaintiff's claim, the old right of property cannot remain in existence after the lapse of any length of time, however considerable, nor unless something beyond mere identity of site is brought forward in proof of it; that to defeat or prevent the right by accretion which the law gives to the adjacent owner the claimant is required to prove some continuing right in himself

some assertion of ownership, and cannot succeed by relying merely on identity of site. The case was distinguished in this respect from the above case of *Mussamut Imam Bandí* v. *Hargovind Ghose—Kattamaní Dási* v. *Raní Manmohini Dábi and others*, III W. R. Civ. Rul. 51, and B. L. R. Sup. Vol. F. B. 353. Reference was also made to and a distinction drawn between this case and that of *Romanath Thakúr and others* v. *Chandra Narain Chaudhrí and others* (Sp. No. W. R. 45: I Mar. Rep. 136, and I R. J. & P. J. 148, in which the law was laid down thus:—"The principle is that where the accretion can be clearly recognized as having been reformed on that which formerly belonged to a known proprietor, it shall remain the property of the original owner. We think cl. 1, s. 4 applies only to cases of land 'gained,' that is to say, formed upon a site which cannot be recognized as that of any former proprietor." In the case of *Thomas Kenny* v. *Bibí Samirúnissa and others* (III W. R. Civ. Rul. 68) the Full Bench decision was referred to and followed. It was also observed that when the land has once been completely diluviated and washed away by a great river (not merely temporarily inundated or partially submerged), all claim to the site is gone and all reformations are governed by the ordinary law of accretion, *i.e.* by cls. 1 and 3 of s. 4 of Reg. XI of 1825. "A claim to hold the land under cl. 2 can only be maintained by the old proprietors when the land used by man has not been diluviated, but is cut off by a change of the stream—fields, trees, houses or other surface objects remaining as before. In this case it is stated by all the Courts that the former lands have diluviated, and that those now disputed are new formations . . . . . The proprietors of the old land immediately adjoining on what may be called the landward side, that is, lying parallel to the river channel, will take the new lands."

In the case of *Mohini Mohan Das* v. *Jagobandú Bose and others* (III. R. C. & C. R. Civ. Rul. 96: VII W. R. Civ. Rul. 103: IX W. R. Civ. Rul. 312), the facts were as follow:—Certain alluvial land was formed close to a Government *khas mahál*. B claimed this land as reformed on the site of his mauza M, which had been completely diluviated. The Collector acceded to this claim and released the land, but the Commissioner refused his sanction, holding that under Reg. XI of 1825 the land as an accretion belonged to the Government *khas mahál*. He therefore directed an appeal to the Judge as Special Commissioner. Government after this sold its rights in the *khas mahál* to A, who took the place of Government in the proceedings before the Special Commissioner, but these proceedings came to nothing, as the Special Commissioner held that Government alone could sue for resumption. A then brought a regular suit in the Civil Court, which decided in favour of B on the ground that the land occupied the site of his mauza M, and that it came up originally as a small island which gradually joined the *khas mahál* after being taken possession of by B. On appeal to the High Court, *Glover, J.* referring to the cases of *Khattamaní Dási* v. *Raní Manmohini Dábi, &c.* and of *Thomas Kenny* v. *Bibí Samirúnissa*, was of opinion that, as the land had been completely diluviated, all claim to the site was gone and all reformations must be governed by cls. 1 and 3, s. 4, Reg. XI of 1825. He further observed that there was no sufficient proof of the disputed land having first made its appearance after the diluvion as an island in an unfordable river. He would therefore have decided in favour of A. *Trevor, J.* held that the land had come up as an island, that Government alone was entitled to it, that it was no accretion to A's estate, and therefore that A's case could not be supported. His opinion, being that of the senior Judge, prevailed, but an appeal was preferred to a full Court, which decided in favour of A. *Peacock, C.J.* said—"There are two modes under Reg. XI of 1825 by which a man may become entitled to land gained by alluvion from a river, the bed of which is not the property of an individual. *First*, where the land is gained by gradual accession by the recess of the river. In that case the land formed is an increment to the tenure of the

person to whose land or estate it is annexed, and the person in possession of the estate acquires a right of property in the increment co-extensive with the property which he has in the estate to which it is joined, and the increment is liable to be assessed to the Government revenue. The *second* mode of acquisition is under cl. 3, s. 4, when a *chur* or island is thrown up in a large navigable river, and the channel between such *chur* or island and the shore is fordable at any season of the year. In that case, the accession is declared to be an accession to the land or tenure which is most contiguous to it. There was a *third* mode in which it was once thought that land might be acquired, *viz.* by reformation upon an old site. But in a Full Bench case (III W. R. Civ. Rul. 51), it has been decided that the ownership of the old site does not give a title to the reformation . . . . . The defendant is not the owner of any portion of the land to which the increment in dispute is now in most part annexed, nor of any portion of the estate which was contiguous to the land when it was an island. The defendant is merely in possession without title. The fact of the defendants taking possession without title could not alter the plaintiff's right. If, when the island first formed, the river was not fordable between the plaintiff's estate which formed that part of the shore which was nearest to the island, the island might according to cl. 3 have been disposed of by Government. If before the Government disposed of it the river between the plaintiff's estate and the island became fordable, then according to cl. 3 it would belong to the plaintiff as the owner of Kútubpore" (the *khas mehal* purchased by A). The learned Chief Justice then proceeded to decide that the increment passed to A with the *khas mahál* purchased from Government, remarking that it would be a question between A and Government, and one in which the defendant had no interest, whether A were liable to be assessed to the Government revenue in respect of the increment.

In *Muthúranath Mazumdár and others* v. *Tarini Charan Singh* (VIII W. R. Civ. Rul. 164: IV R. C. & C. R. Civ. Rul. 125), Peacock, C.J. said—"I do not thoroughly understand all that is said in the Full Bench case (III W. R. 51) with regard to time and means of identity. But I take it that the meaning of that case substantially is that, when once land has been washed away, the fact of reformation by gradual accretion on the old site does not vest the newly-formed land in the owner of the old site, but that the newly-formed land belongs according to the Regulations to the owner of the land to which it is annexed. Applying that principle to this case, although the land belonging to B was washed away only five years ago, and regained by the gradual receding of the river, still the land having reformed on the old site did not become the property of the former owner of that site."[1]

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[1] See, in connection with the same subject, *Gobind Nath Sandyal and others* v. *Nabo Kúmar Banerji and others*, VIII W. R. Civ. Rul. 206: *Kirti Narain Chaudhri* v. *Protap Chándra Baroa*, Sp. No. W. R. 129: *Bhagiruthi Debya and others* v. *Girish Chundra Chaudhri*, Hay's Reports for May, 1863, 541: *Naraini Barmani* v. *Tarini Charan Singh and others*, VI W. R. Civ. Rul. 40: *Kazi Torabudin, &c.*, v. *Sham Kant Banerji, &c.*, VI W. R. Civ. Rul. 249: *Kali Mani Debya, &c.*, v. *The Collector of Maimansingh, &c.*, V W. R. Civ. Rul. 55: *Tarini Persad Chaudhri* v. *Shambhú Chandra Chaudhri, &c.*, II W. R. Civ. Rul. 10: *G. P. Wise, &c.*, v. *Amiramissa Khatún, &c.*, II W. R. Civ. Rul. 132: *Ram Kanhaye Chakravatti, &c.*, v. *Jagobandhú Bose, &c.*, II W. R. Civ. Rul. 283: *Nobo Kissen Rai, &c.*, v. *Jagobandhú Bose, &c.*, II W. R. Civ. Rul. 284: (In these two latter cases the necessity of clear and independent evidence to prove a plea of *reformation* was remarked upon): *Adu Mea* v. *Sibo Súndari*, II W. R. Civ. Rul. 295: *Mem Rakhan Rai, &c.*, v. *Ram Dhyan Misser, &c.*, II W. R. Civ. Rul. 324: *Keshub Lal Chaudhri, &c.*, v. *Messrs. R. Watson & Co.*, Suth. Rep. to July 1864, Civ. Rul 64 (In this case the estate to which the accretion was claimed had been wholly diluviated and had been removed many years before from the rent-roll of the district): *H. Maseyk and others* v. *J. F. Hedger and others*, Suth. Rep. to July 1864, Civ. Rul. 306: *Janoki Chaudhrain* v. *Harnath Rai*, II Sev. 312: *Mussamat Rani Katiyani* v. *Sheikh Mahomed Shurf-úd-dín*, IV N-W-P. Rep. Civ. Ap. 189.

I now come to the case of *Felix Lopez* v. *Maddan Mohan Thakur and others* (XIII Moo. In. Ap. 467: V B. L. R. 521) which may be regarded as the leading case upon the subject of reformation upon the old site. The facts were as follow:—The appellant was the owner of mauza M; the respondents were the owners of mauza B, which lay north of M and contiguous thereto on the south bank of the Ganges. In 1840, diluvion having commenced, a plan *(tunabandi)* was by consent of parties drawn up, showing the old boundaries. Subsequently the appellant's mauza was completely submerged, but he continued to pay Government revenue for it, the description and measurement being recorded in the Collector's *tanjih*. In 1848 the river began to recede to the north and sandy accretions formed on the site of M, but contiguous to the unsubmerged land of B. After one temporary recession and re-encroachment, the water ultimately retired, and the alluvial land formed on the site of M, being at first fit only for temporary cultivation by hand sowing, became subsequently hard and firm *soil* fit for cultivation in the usual manner. The appellant (plaintiff in Court of first instance) claimed the alluvial land as his property which had again reappeared. The respondents claimed it as an accretion to their *mauza* B. The Principal Sadr Amin decided in favour of the plaintiff. The defendants appealed to the High Court, who following *Kenny* v. *Bibi Samiranissa (ante*, p. 593 decided in their favour. Upon this the plaintiff appealed to the Privy Council. The following is the material part of their Lordships' written judgment:—"The rule of the English law applicable to this case is thus expressed in a work of great authority (Hale, 'De Jure Maris,' p. 15): 'If a subject hath land adjoining 'the sea, and the violence of the sea swallow it up, but yet so that there be reasonable marks to 'continue the notice of it, or though the marks be defaced, yet if by situation and extent of 'quantity and boundary on the firm land the same can be known, or it be by art or industry 'regained, the subject doth not lose his property. If the marks remain or continue, or the extent 'can reasonably be certain, the case is clear.' And in another place, p. 17, he writes thus:—'But 'if it be freely left again by the reflux and recess of the sea, the owner may have his land as 'before, for he cannot lose his property of the soil, although it for a time becomes part of the sea 'and within the admiral's jurisdiction while it so continues.'

Law settled by leading case of *Lopez* v. *Maddan Mohan Thákur.*

"This principle is a principle not merely of English law, not a principle peculiar to any system of municipal law, but it is a principle founded on universal law and justice; that is to say, that whoever has land, wherever it is, whatever may be the accident to which it has been exposed, whether it be a vineyard which is covered by lava or ashes from a volcano, or a field covered by the sea or by a river, the ground, the site, the property remains in the original owner."

"There is, however, another principle recognized in the English law (derived from the civil law), which is this,—that where there is an acquisition of land from the sea or a river by *gradual, slow and imperceptible means*, there, from the supposed necessity of the case and the difficulty of having to determine year by year to whom an inch or a foot or a yard belongs, the accretion by alluvion is held to belong to the owner of the adjoining land—*The King* v. *Lord Yarborough*.[1] And the converse of that rule was, in the year 1839, held by the English Courts to apply to the case of a similar wearing away of the banks of a navigable river, so that there the owner of the river gained from the land in the same way as the owner of the land had in the former case gained from the sea—*In re The Hull and Selby Railway Company*.[2] To what extent that rule would be carried in this country, if there were existing certain means of identifying the original bounds of the property by landmarks, by maps or by a mine under the sea, or other means of that kind, has never been judicially determined."

[1] Bligh. N. S. 147: 3 B. & C. 91.

[2] 5 M. & W. 327.

Lopez v. Maddan Mohan Thákur.

"This principle of law, so far as relates to accretion, has to some extent been made part of the positive written law of India, and it is on the operation of such positive written law that the defendant's case is based. This law is to be found in the Reg. XI of 1825, a Regulation for carrying out the rules to be observed on the determining of claims to lands gained by alluvion or by the dereliction of a river or the sea. There is a recital in that Regulation as to disputes which had arisen with regard to such claims, and the necessity of having some definite rule laid down with regard to several matters, only one of which is material or relevant to the present case; and that is the case provided for by the 4th section of the Regulation. By that section it is provided that, 'when land may be gained by gradual accession, whether from the 'recess of a river or of the sea, it shall be considered an increment to the tenure of the person to 'whose land or estate it is thus annexed, whether the land be held immediately from the Govern-'ment or from any intermediate land-owner.' And the defendant's contention is that the plaintiff's land having been wholly submerged, so as to make their (the defendants') land the river boundary, the subsequent recession of the river has caused a gradual accession to their land and an increment by annexation to their estate, notwithstanding that the land has been reformed on the ascertainable and ascertained site of the plaintiff's mauza."

"It is to be observed, however, that that clause refers simply to cases of gain, of acquisition by means of gradual accession. There are no words which imply the confiscation or destruction of any private person's property whatever. If a Regulation is to be construed as taking away anybody's property, that intention to take away ought to be expressed in very plain words, or be made out by very plain and necessary implication. The plaintiff here says:—'I had the 'property. It was my property before it was covered by the Ganges. It remained my property 'after it was submerged by the Ganges. There was nothing in that state of things that took it 'from me and gave it to the Government. When it emerged, there was nothing that took it from 'me and gave it to any other person.' And in answer to such a claim it would certainly seem that something more than mere reference to the acquisition of land by increment, by alluvion or by what other term may be used, would be required in order to enable the owner of one property to take property which had been legally vested in another."

"In truth when the whole words are looked at, not merely of that clause, but of the whole Regulation, it is quite obvious that what the then legislative authority was dealing with was the gain which an individual proprietor might make in this way from that which was part of the public territory, the public domain not usable in the ordinary sense, that is to say, the sea belonging to the State, a public river belonging to the State; this was a gift to an individual whose estate lay upon the river or lay upon the sea, a gift to him of that which by accretion became valuable and usable out of that which was in a state of nature neither valuable nor usable."

"And on the very words of the section itself, if the ownership of the submerged site remained as it was (and there seems nothing to take it away), it is difficult to see why a deposit of alluvion directly upon it is not at least as much *an accretion and annexation vertically to the site*, as it would be an accretion and annexation longitudinally to the river frontage of the adjoining property."

"If we had then to consider the question for the first time, we should have come to the conclusion that the 4th section did not govern the case, and that the question would have to be determined by the general principles of equity, to which all cases not in terms provided for are referred by the 11th section.[1] Those principles would not give the plaintiff's property to the defendant. But the question is not raised for the first time. The very point came for considera-

[1] Should be 5th clause of 4th section.

tion in India before a Court comprising Sir Barnes Peacock, Mr. Justice Bayley and Mr. Justice Kemp, in the case of *Romanath Thakúr* v. *Chandra Narain Chaudhrí*;[1] and after full consideration it was decided that lands washed away and afterwards reformed on an old site, which could be clearly recognized, are not lands gained within the meaning of s. 4, Reg. XI of 1825, *viz.* they do not become the property of the adjoining owner, but remain the property of the original owner."

Lopez v. Maddan Mohan Thákur.

"And the same point arose in a case in this Court of *Mussamat Imam Bandi* v. *Hargobind Ghose*.[2] It is there said,—'The whole of the district adjoining the land in dispute, as well as 'that land itself is flat and very liable to be covered or washed away by the waters of the Ganges, 'which river frequently changes its channel. The land in dispute was inundated about the year '1787; it remained covered with water till about 1801, and then became partly dry, until in the 'year 1814 it was again inundated. After this period it once again reappeared above the surface 'of the water, and by the year 1820 it became very valuable land.' That is a state of things very singularly like what has occurred in this case."

"In that case it was held as follows:—'The question then is to whom did this land belong 'before the inundation? Whoever was the owner then remained the owner while it was covered 'with water and after it became dry.'"

"This authority appears to their Lordships conclusive in the present case."

"In a subsequent case, however, *Kattamani Dasi* v. *Rání Manmohini Dabí*,[3] it was held by a Court comprising Justices Trevor, Loch, Bayley and Morgan, that all gradual accessions from the recess of a river or the sea are an increment to the estate to which they are annexed without regard to the site of the increment, and a distinction was taken between the two cases; and it seems to have been considered that the former case did not apply to any case where the property was to be considered as wholly lost and absorbed, and no part of the surface remained capable of identification; where there was a complete diluviation of the usable land and nothing but a useless site left at the bottom of the river. *Their Lordships, however, are unable to assent to any such distinction between surface and site.* The site is the property, and the law knows no difference between a site covered by water and a site covered by crops, provided the ownership of the site be ascertained."

"Their Lordships however desire it to be understood that they do not hold that property absorbed by a sea or a river is under all circumstances and after any lapse of time to be recovered by the old owner. It may well be that it may have been so completely abandoned as to merge again like any other derelict land into the public domain, as part of the sea or river of the State, and so liable to the written law as to accretion and annexation."

"But in this case not only did the parties themselves take the proper, prudent and honest means of preventing the necessity of any dispute arising by interchanging the *tanabandí* which has been put in evidence, but the plaintiff, as between him and the State, did also take the most effectual means in his power (having the description and measurement of the submerged mauza recorded, and continuing to pay rent for it) to prevent the possibility of any question of dereliction or abandonment being raised against him. Their Lordships are therefore of opinion that the property now being capable of identification by means of that *tanabandí* and otherwise, the property having been the property of the plaintiff when it was submerged, never having been abandoned or derelict, having now emerged from the Ganges, is still his property."

[1] Marsh. H. C. Rep. 136

[2] 4 Moore's I. A. 403.

[3] 3 W. R. 51.

The decision in *Lopez* v. *Maddan Mohan Thakúr* was followed in *Harsahai Singh* v. *Syud Lútf Ali Khan* (II L R. I. A. 28; XIV B. L. R. 268; and XXIII W. R. 8), which was a case very similar in its facts; and was commented upon with approbation in *Nogendra Chandra Ghose and another* v. *Mahomed Esáf and others* (X B. L. R. 406, and XVIII W. R. 113), which is another most important case illustrating the limits of the application of the principle by a different state of circumstances. The plaintiffs here were zemindárs of *taraf* T situate on the eastern shore of the Kurnafúlí, a large navigable and tidal river in the Chittagong district. This *taraf* consisted of three mauzas J, K and L. The defendants were co-sharers in *táluk* A situate on the western bank of the same river. Sometime before 1847 the river threw up in its main and navigable channel two churs, C and D, which were settled with the defendants as appurtenances to mauza B of táluk A. Before the end of 1852, chur D was swept away, and another low chur F was formed in the vicinity of its site, which was settled with the defendants instead of D. Before 1854 the river threw up a considerable quantity of other chur-land towards the eastern shore, a portion of which, G, was claimed by the plaintiffs as a reformation on the site of part of their mauza K, which had been previously diluviated. The defendants claimed it as alluvion on the east of C. The Magistrate gave possession to the defendants. The plaintiffs then sued to establish their title to and recover possession of G. They succeeded in the District Court, but the decree there obtained was reversed on appeal by the High Court, upon which they appealed to the Privy Council. It was found as a fact that G was a reformation on the site of their diluviated *mauza*. The following is the essential portion of the judgment:—"Whilst, therefore, their Lordships think that the appellants have established the identity of the site of the land in dispute with that of lands originally included in their zemindárí and afterwards washed away by the river, they will for the determination of this appeal take as also proved that the chur marked C on the darogah's map, though it has since been swept away, existed in 1854 as a chur settled with and in the possession of the respondents, and that the land in dispute was then adherent to it. They here advisedly use the term 'adherent,' because it appears to them that there is an important distinction between mere physical adhesion and that 'accretion' or *incrementum latens*, which by reason of its gradual and imperceptible formation is recognized by the law as belonging to the persons to whose land it is adjacent. In the present case, the evidence touching the manner in which the chur in question was formed is extremely scanty; and their Lordships are by no means satisfied that it was such as would make the land an 'accretion' according to the strict legal definition of the term."

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"Their Lordships have now to consider what is the law applicable to the facts thus found, and what are the rights of the parties thereunder. And the long and able arguments addressed to them on this subject render it desirable to review the law of alluvion which obtains in Bengal, as declared by the positive provisions of Reg. XI of 1825 or by the decided cases, which the learned Counsel for the respondents have contended cannot easily (if at all) be reconciled with each other."

"The 1st section of the Regulation,—after specifying as the subjects which called for legislation the following cases, *viz.*: 1*st*, the throwing up of churs or small islands in the midst of the stream or near of its banks; 2*ndly*, the carrying away of portions of land by an encroachment of the river on one side, and an accession of land at the same time or in subsequent years gained by the dereliction of the water on the opposite side; and 3*rdly*, similar instances of alluvion, encroachment and dereliction on the sea-coast bordering the southern and south-eastern limits of Bengal—enacts that the rules declared by the following sections shall have the force of law throughout the Presidency of Fort William. The 2nd section provides that local usage, whenever it exists, shall prevail. The 3rd section that, when there is no local usage, the general rules declared

Review of the law of alluvion by the Privy Council.

in the 4th section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea. This 4th section is divided into five clauses. The *first* deals with land gained by gradual accession (*i.e.* alluvion in the proper sense of the word), and provides that it shall be considered an increment to the tenure of the person to whose land or estate it is annexed, subject to the right of Government to assess additional revenue upon it. The *second* provides that the former rule shall not be applicable to cases of sudden avulsion, where the identity of the land is not destroyed, preserving in that case the rights of the original owner. The *third* makes a chur or island, thrown up in a large navigable river (the bed of which is not the property of an individual) or in the sea, the property of the Government, if the channel between it and the shore be not fordable, but provides that, if such channel be fordable at any season of the year, the chur shall be considered an increment by alluvion to the tenure of the person whose estate is most contiguous to it and shall be subject to the provisions of the first clause. The *fourth* clause deals with churs in small rivers, the beds of which have been recognized as the property of individuals, giving them to the proprietor of the bed of the river. And the *fifth* clause provides that, "in all cases of claims and disputes respecting lands gained by alluvion or by dereliction of a river or the sea, which are not specially provided for by the foregoing rules, the Courts shall be guided by local usage, if any be established as applicable to the case; and, if not, by general principles of equity and justice."

"Two observations arise on this statute:—(1) There is nothing to show that the first rule contemplates land other than that which commonly falls within the definition of 'alluvion,' *viz.* land gained by gradual and imperceptible accretion, the *incrementum latens* of the civil law. (2) No express provision is made for the case of land which has been lost to the original proprietor by the encroachment of the sea or a river, and which, after diluviation, reappears on the recession of the sea or river: but on the other hand there is nothing to take away or destroy the right of the original proprietor in such a case which must therefore be determined by 'the general principles of equity or justice' under the fifth rule."

"That the right of the proprietor in the case last put exists and is recognized by law in India, is established by at least two cases decided at this Board and therefore binding on their Lordships, *viz.* the case of *Mussamat Imam Bandi* v. *Hargovind Ghose*[1] and the recent case of *Lopez* v. *Maddan Mohan Thákur*,[2] decided on the 11th July 1870. The former is a clear authority that the identity of the site may be established by maps and ancient documents, although by the long submergence of the land all external marks and means of identification have been obliterated. It is not however very clear in that case whether the question between the parties was one of boundaries of the original estates, or of dispute between one party claiming the land as a reformation on his original land, and the other claiming it as an accretion under the first clause of the 4th section of the Regulation. The latter, however, was clearly the issue between the parties in the case of *Lopez* v. *Maddan Mohan Thákur*.[2] It may, however, be said that that case is distinguishable from the present by its peculiar circumstances, inasmuch as in the former the encroachment of the river had in the first instance swept away the surface of the plaintiff's mauza and made the defendant, who held lands behind those so swept away, for the first time a riparian proprietor; and because the plaintiff had by the preparation of the *tanabandi* map and otherwise taken peculiar precautions to preserve and protect his right in the soil against his neighbour as well as the Government."

[1] 2 B. L. R. P. C. 4; S. C. 4 Moore's I. A. 403.

[2] 5 B. L. R. 521; S. C. 13 Moore's I. A. 467.

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"It was moreover contended that some at least of the principles laid down in the case of *Lopez* v. *Maddan Mohan Thákur*[1] are in conflict with the previous decision of this Board in the case of *Eckauri Singh* v. *Hiralal Seal*.[2] That case had not been reported when that of *Lopez* v. *Maddan Mohan Thákur*[1] was decided, and does not appear to have been cited in the argument. Their Lordships cannot however perceive any inconsistency between the two judgments. The decision in the case of *Eckauri Singh* v. *Hiralal Seal*[2] seems to have proceeded on two grounds, namely, 1*st*, that it was not competent to the plaintiffs, who had alleged a title to the land as an accretion to their estate, to raise at the hearing of their appeal a different case *viz.* 'one simply of original ownership of the site of the lands reformed;' and 2*ndly*, that, had such a title been properly pleaded, the evidence failed to establish the identification of the site. The case of *Mussamat Imam Bandi* v. *Hargovind Ghose* is cited in the judgment, which throws no doubt upon the validity of such a title if properly pleaded and proved. Again, the learned Counsel for the respondents argued broadly that by diluviation into a navigable river land is permanently lost to the original proprietor and becomes the property of the State; and in support of this proposition they relied much on an American work, 'Houk on Navigable Rivers,' which they argued was the more deserving of attention by reason of the similarity which exists between the great rivers of America and those of India in their conditions and mode of action. This authority however does not appear to their Lordships to assist the respondent's case. The law of alluvion in America seems to be less favorable to riparian proprietors than that of India or of England. For Mr. Houk draws a distinction between estates consisting of a given quantity of land and defined by a mathematical line, though by one on the margin of a river, and those of which the river is the nominal boundary. He holds that in the former case alluvion, however small and however gradually and imperceptibly formed, is the property of the State. And after dealing with this question, he says in s. 258:—'Nevertheless it is possible that by 'the action of the sea or a change of the channel of a river the land so granted may be partly 'lost. No doubt in case afterwards the land should be washed up again, it would belong to the 'former owner of the estate originally purchased, and no further. While however the land 'is submerged in the river, the title is in the State.' This is consistent with the civil law, Dig. lib. xli, tit. i, s. xxx, and with the law of England as declared in the passage cited in the case of *Lopez* v. *Maddun Mohan Thakúr*[1] from Hale 'De Jure Maris.'"

"In India the point thus taken seems to be concluded by the authority of the decided cases. The learned Counsel did not contend for a distinction between a tidal river and a navigable river which has ceased to be tidal. Their Lordships have no reason to suppose that in India there is any such distinction as regards the proprietorship of the bed of the river, though in respect of the mode of accretion there must be some difference between the effect produced by the daily flux and reflux of the tide and the changes which are mainly consequent on the annual floods. Now, if there is no such distinction, it is clear that the Ganges at Bhaugulpore, as in the case of *Lopez* v. *Maddan Mohan Thákur*,[1] and at Patna, as in the case of *Mussamat Imam Bandi* v. *Hargovind Ghose*, is a navigable though no longer a tidal river, and consequently that these cases are direct authorities against the learned Counsel's proposition. Their Lordships accede to what is said in the case of *Lopez* v. *Muddun Mohan Thákur*,[1] to the effect that a proprietor may in certain cases be taken to have abandoned his rights in the diluviated soil. It is unnecessary to consider whether this might not be the result of a successful application for remission of

[1] 5 B. L. R. 521; S. C. 13 Moore's I. A. 467.
[2] 12 Moore's I. A. 36.

revenue under Act IX of 1847, s. 5; for in the present case there is nothing from which such abandonment can be inferred. If an application for remission of revenue was made, that application was refused."

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"The appellants having then established a *primâ facie* title to the land in dispute as a reformation, the question is whether the respondents have a superior title to it as an accretion to their settled chur. It is not easy to see upon what principle a title to alluvion by gradual accretion should prevail against the original ownership established by identification of site, unless it be that, where the accretion is so gradual as to be latent and imperceptible during its progress, the law on grounds of convenience presumes incontrovertibly that no other ownership can be shown to exist, and so bars inquiry. In the present case it appears to their Lordships that such a gradual and imperceptible accretion as the law contemplates is not proved, and that there are peculiar reasons why the title of the plaintiffs should be preferred to that of the defendants. The latter do not claim the land as an accretion to their original estate. They claim it as an accretion to the chur cast up by the river and settled with them by Government. Let it be granted that the first effect of the retrocession of the river was to leave bare this chur in the midst of the stream, and that the land then cast up was beyond the confines of the plaintiff's estate. The river continues to recede, more land appears, and new land, though adherent to that first discovered, is really a deposit on the ancient site of the plaintiff's land. Why should the ownership of that which is thus regained be altered by the fact that, from some accidental cause, land forming the outer edge of it first emerged as an island? The darogha's map seems to show that this must have been the course of the river's action. Nor, as their Lordships have already observed, is there any trustworthy evidence which traces the history of the disputed land, or shows that by gradual and imperceptible accretion it became adherent to the chur, which upon the whole evidence must be taken to have now ceased to exist. Such a case as the present is very distinguishable from the ordinary case contemplated by the Regulation, in which a river gradually shifting its channel in one direction continually eats into one bank and leaves the other, never ceasing to flow between the competing estates."

"Their Lordships are not insensible to the difficulties of identification and to the danger of encouraging claims of this kind on insufficient evidence. They lay down no rule as to the strictness of proof which the Courts in India may require in such cases. They also consider that a title founded on the original ownership and identification of site is to be confined *primâ facie* to the reformation on that site. And, if in the present case it had appeared that some part of the land in dispute had been thrown up beyond the original boundaries of the appellant's estate, a question might fairly have arisen between the appellants and the respondents whether that was to be taken to be an accretion to the estate of the former or to the settled chur of the latter. But upon the evidence they are satisfied that the whole of the land which continues to be the subject of the suit is a reformation within the limits of the appellant's original estate. This being so, their Lordships are of opinion that the Zillah Judge was right in decreeing the whole to the appellants."

Title by reformation to be confined *primâ facie* to old site.

In *The Collector of Dacca* v. *Kali Charan Poddar* (XXI W. R. 447) the plaintiff obtained in the lower Court a decree for (1) 380 *bighás* reformed on the site of his property, and (2) 279 *bighás* as an accretion thereto. The High Court reversed the decree in respect of the latter, referring to the above observations that a title founded on the original ownership and identification of site is to be confined *primâ facie* to the reformation on that site: and holding that there was not proof that this portion was an accretion to plaintiff's property. In *Buddan Chandra Saha and others* v. *Bipin Behari Rai* (XXIII W. R. 110) it was contended that the circum-

stances fell within the following observations of the Judicial Committee in *Nogendro Chandra Ghose* v. *Mahomed Esaf*. "Such a case as the present is very distinguishable from the ordinary case contemplated by the Regulation, in which a river, gradually shifting its channel in one direction, continually eats into one bank and leaves the other, never ceasing to flow between the competing estates." And again:—"It is not easy to see upon what principle a title to alluvion by gradual accretion should prevail against the original ownership established by identification of site, unless it be that, where the accretion is so gradual as to be latent and imperceptible during its progress, the law on grounds of convenience presumes incontrovertibly that no ownership can be shown to exist, and so bars enquiry." The contention failed, as the case of the defendants "was not originally nor upon the evidence a case of *gradual imperceptible accretion*." See also *Pragdatt Raút* v. *Lachman Persad and others*, III N-W-P. Rep. N. S. 111.

The case of *Pahalwan Singh* v. *Maharaja Mohessur Baksh Singh Bahadur* (IX B. L. R. 165) was distinguished from *Lopez* v. *Maddan Mohan Thákur*, inasmuch as the defendants did not raise the issue that the land was their old ascertainable land, swallowed up and then restored. With respect to evidence of accretion, the following passage in the judgment of the Privy Council is important—"No doubt their Lordships at one period of the argument had considerable doubt whether there might not have been a mistake in point of law; because, looking at the nature of the report of the Amín, and of the judgment of the first Judge, and even at the form of the issues, there appeared reason to doubt whether it had not been supposed that, if the surface of the land had all been changed, and the marks had all been obliterated, so that no houses, or trees, or mounds, or vestiges of boundary could be found, and that all the surface of the land was fresh land which had been brought down by the river,—that was conclusive of the question. Now, if the Court below had meant to say that was conclusive in point of law, so that the land was to be considered as land gradually accreted, even although the channel of the river had changed and had gone from one bed and course to another—if the Court below had meant to say that, if the marks of the old channel were obliterated, and if the marks of the land between the old channel and the new channel had also been obliterated, by reason of the water having flowed over the surface and washed off the old land, and brought new sand and mud down upon it, notwithstanding there was land left between the two channels which had not, in fact, fallen into the river, and been entirely sunk into the channel itself,—if they meant to say that was conclusive, their Lordships would have thought they would clearly have been wrong in point of law."

In *The Court of Wards* v. *Radha Persad Singh* (XXII W. R. 238), Couch, C.J. referring to the cases of *Romanath Thákur* v. *Chandra Narain Chaudhri*, *Mussamat Imam Bandi* v. *Har Gobind Ghose*, *Lopez* v. *Maddan Mohan Thákar*, and *Nogendro Chandra Ghose* v. *Mahomed Esaf*, said:—"It is fully established by these decisions that if the reformation can be identified with the original site, and the owner of it is known, the Regulation does not deprive him of his property in the reformed land which will belong to him. In those cases, I think in all of them, the reformation did not take place as it did in the present case. It would seem that in those cases the reformation began in the middle of the stream, or not adjoining to either bank of it, and gradually became annexed to the bank. But this makes no difference in the principle of the law that, if the site can be identified, the land shall belong to the owner of it. Whether the reformation is by accretion to other land or not, the right of the owner of the site ought equally to prevail. In the present case, therefore, the plaintiff cannot rely upon a title by accretion; because I take it to be satisfactorily proved by the proceedings before the different Revenue Authorities, at which the plaintiff was represented, that the sites of the different lands that had been washed

away were identified after the reformation, and the Revenue Authorities were able to lay down on the maps the position of the different lands that had been washed away and had reformed."

"But the plaintiff relies upon cl. 2 of s. 4 of the Regulation. He says in his plaint that the river suddenly changed on two occasions and formed *chukees*, and that he was entitled by cl. 2 of s. 4 of the Regulation to that land. The words of the clause are:—'The above rule shall not 'be considered applicable to cases in which a river, by sudden change of its course, may break 'through and intersect an estate without any gradual encroachment, or may by the violence of 'stream separate a considerable piece of land from one estate, and join it to another estate, 'without destroying the identity and preventing the recognition of the land so removed. In such 'cases the land, on being clearly recognized, shall remain the property of its original owner.'"

"Now, this clause does not apply in a case like the present so as to give to the plaintiff the ownership of the land, if he has not acquired it by the operation of the first clause. It is in fact a qualification of the first clause, and says that it shall not be applicable where there is a sudden change in the course of the river. The plaintiff is so far right in his construction that if he could show that the land which he claims had become his property by the operation of the first clause the second would not take it away from him. But that is very different from the second clause giving to him the property when he has not acquired it by accretion. And according to the law as laid down by the Judicial Committee, he has not a title by accretion."

"Then it also says that in such cases, that is, of a sudden change in the course of a river, the land, on being clearly recognized (which was the case here) shall remain the property of its original owner. "Original owner" does not mean the person who may for a time have had possession of the accreted land without having acquired a right to the site of it. The original ownership must include the ownership of the site, and if the plaintiff has not acquired that, this clause cannot operate to give him a right to the land."

An estate consisted of some 638 *bighás*, the revenue of which was Rs. 164. It was all diluviated except 141 *bighás*, which A purchased from Government, and the revenue of which was fixed at Rs. 13. A claimed land reformed on the site of the land which had been washed away. It was held that he could not recover, as he did not purchase or pay revenue for the whole estate including the land washed away. In *Lopez's* case, it was remarked, the plaintiff continued to pay the original revenue for the entire estate, although a great portion of it had been diluviated, and when the land reformed on its original site he merely recovered what he had been paying revenue for all along. Had he received from Government any abatement on account of the diluvion, he would not have recovered the reformed lands—*Jagobandhú Bose* v. *Kúmúdiní Kant Banerji Chaudhri and others*, XIX W. R. 89. Where however a purchaser bought the estate itself, and the diminished area was mere matter of description at the sale, and the purchaser apparently continued to pay the revenue originally assessed on the estate, he was held to be entitled to the reformations—*Gunga Narain Chaudhri and another* v. *Radhika Mohan Rai and others*, XXI W. R. 115, and on review XXII W. R. 230. It appears that the site of the land wholly diluviated is still a transferable property—see *The Government* v. *Babu Radhay Singh*, XX W. R. 117.

Effect of revenue not being paid for the submerged site.

A title by reformation on the old site will prevail over a claim by Government under cl. 3 upon the ground that the land thrown up is an island—*Mani Lal Sahu and others* v. *The Collector of Sarun and others*, VI B. L. R. App. 93: *The Collector of Rajshahye* v. *Rani Shama Sundari Debya and others*, XXII W. R. 324, and XIV B. L. R. 219.

In a suit founded on the allegation that the land claimed is a reformation on the old site, when limitation is pleaded by a defendant in adverse possession, the plaintiff must apparently show

Limitation.

that he was in possession of the old land before it was washed away—*Gokul Krishto Sen Munshi* v. *M. David*, XXII W. R. 443.

As to the presumption arising from delay in suing, see *Sham Chand Beisakh* v. *Kissen Persad Surma*, alias *Baja Babu*, XIV Moo. In. Ap. 595.

Adverse possession of *chur* lands for *twelve* years will be a bar to a suit for possession of such lands; nor is it a tenable contention that limitation begins to run only from the time that the lands are culturable. On the contrary adverse possession can commence directly the land is in existence and may be evidenced by any proved act of ownership, *e.g.* gathering brushwood, reeds, &c.—*Luckhi Debya Chaudhrain and others* v. *The Collector of Mymensingh and others*, VII W. R. Civ. Rul. 231. See also *Luchmi Narain Shah and others* v. *Jutadhari Haldar and others*, VII W. R. Civ. Rul. 89: *Daya Mayi Dasi and others* v. *Lachmi Narain Saha and others*, VII W. R. Civ. Rul. 457: *Janobi Chaudhrain* v. *The Collector of Mymensingh and others*, VIII W. R. Civ. Rul. 287. The Law of Limitation in India being express, the fact of obtaining possession dishonestly or knavishly will not prevent the possessor from availing himself of the provisions of that law, but the law cannot relieve him from the charge of dishonesty—*Kowar Poresh Narain Rai* v. *Messrs. R. Watson & Co.*, V W. R. Civ. Rul. 283. In *Kali Chandra Chaudhri* v. *Mani Karnika Chaudhrain and others* (Suth. Rep. to July 1864, Civ. Rul. 149) the lands in dispute were *taufir* lands, which had been resumed by Government in 1835 and permanently settled with the defendant on 19th April 1859. Plaintiffs sued to establish his right to have the land settled with him, and was met among other pleas with that of *limitation* under the twelve years' rule, on the ground that defendant had been more than twelve years in possession under temporary leases granted him when the estate was under the Collector's management. The High Court however held that possession under such leases was not adverse possession, the rights of parties during a temporary settlement being not extinguished but only in abeyance; nor was the Court prepared to admit that the mere fact of the Revenue Authorities having allowed the defendant a *malikána* allowance during the period he held the lands on lease would have the effect of barring the plaintiff's right to a permanent settlement whenever that might be made.

Adverse possession of churs.

In *Samad Ali and another* v. *Srimati Karimanissa and others* (V R. C. & C. R Civ. Rul. 149) it was observed that when lands which are not in their nature capable of actual occupation, such as a *khal*, appertain and belong to lands which are occupied, the possession in point of law necessarily follows the possession of the lands to which the former belong. But when the *khal* dries up and becomes capable of being cultivated, if any one to whom it does not belong takes actual possession of it, a cause of action accrues to the person in possession of the land to which it appertains.

The allegation of the plaintiff was that his village and defendant's village were entirely washed away and were reformed on the same site. As no third party appeared to claim the newly-formed lands as an increment to his estate, the question of title fell to be determined by cl. 5, s. 4, Reg. XI of 1825—*Janobi Chowdhrain* v. *The Collector of Mymensingh and others*, VIII W. R. Civ. Rul. 287.

In *Bhagiruthi Debya and others* v. *Girish Chandra Chaudhri* (Hay's Reports for May 1863 p. 541), the disputed land was the dried-up bed of a river. The Court remarked that by the common law of the country, the right of the soil of a river when flowing within the estates of different proprietors belongs to the riparian owners *ad medium filum aquæ* (*Rájá Nilmadhub Singh* v. *Rájá Tehárum Singh*, S. D. Rep. 9th May 1862); that, where the property in the soil belonged to a particular person, he was entitled to the possession and profits of it when it ceased to be

covered with water; that therefore it was a proper application of the principles of equity and justice (cl. 5, s. 4, Reg. XI of 1825) to follow the civil law, as laid down in Justinian's Institutes, bk. ii, tit. i, s. 23, and to give the newly-formed land to the riparian owners, dividing it by a line drawn parallel to and equidistant from each bank. In the case of *Sheo Ghulam Tiwari* v. *Fakira Misser* (V N-W-P. Rep. Civ. Ap. 400) the course of the river had changed so as to form the base of a triangle, the two sides of which were the former course. The land in dispute was that enclosed within this triangle. Plaintiff's and defendant's villages were conterminous, and the boundary thereof ran down to the old course near the apex of the triangle. They admittedly held each the deserted bed in front of his own village. It was not clear whether the land was formed by gradual accretion on a site belonging formerly to the village over the river and opposite the villages of both plaintiff and defendant, or was a slice cut off from that opposite village by a sudden change in the stream. The Court held that cl. 1, s. 4, Reg. XI of 1825 was inapplicable, that the Court must proceed under cl. 5 on general principles of equity and justice; and that it was a proper application of these principles to give a moiety of the land to each party.]

Encroachments on beds of navigable rivers and other obstructions to their free navigation prohibited.

V. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent the *Zillah* and City Magistrates or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respect obstruct the passage of boats by tracking on the banks of such rivers or otherwise.

Right of fishery in navigable rivers.

[Government, claiming the right to certain *fisheries* on the ground that the rivers in which those fisheries were situate being navigable were the property of the State and not of the pro-proprietors of decennially-settled estates, took possession by means of a notice of attachment issued by the Collector. The parties thus ousted brought a suit in the District Court to recover possession. They pleaded limitation (60 years) against Government, relying on the case of *Maharájá Dheraj Rájá Mahtab Chand* v. *The Government of Bengal* (IV. Moo. In. Ap. 466) alleging that they had been more than 60 years in possession to the knowledge of and undisturbed by Government. They also asked judgment on the merits as affecting the question of proprietary right. The District Judge, without going into the question of limitation, decided that the parties, having been illegally dispossessed, must be restored to possession, holding also on the authority of the case of *Hargobind Ghose, Petitioner* (S. D. A. Sum. Rep. 17th July 1847, p. 131), that he had no jurisdiction to enter into the question of proprietary right as being mixed up with the right of the Government to impose an assessment, and therefore one for the decision of the Resumption Courts; also that Government should have proceeded under Reg. II of 1819 to resume the fisheries. On appeal to the High Court it was decided that the District Judge was right in holding that Government had acted without authority of law in attaching the property; but wrong in not having tried the point of limitation, in not having decided the case on the merits as affecting the question of proprietary right, and in having referred the Government to proceedings under Reg. II of 1819 as the proper course of action in a claim for the rights of fisheries in large navigable rivers. The case was therefore remanded—*Collector of Rungpore* v. *Ramjadab Sen, and Collector of Rungpore* v. *Rání Surnamayí, &c.*, II Sev. 573. The remand was subsequently, on review, set aside as unnecessary, and judgment was given for defendants. The

defendants having thus been successful, Government brought a regular suit to establish its right and title to the fisheries. To this limitation under s. 2, Reg. II of 1805 was pleaded, and it was held that the claim of the Government was barred by 60 years' adverse possession on the part of the defendant—*Collector of Rungpore* v. *Prosonno Kúmár Thákur*, II Sev. 385. In another case arising out of similar proceedings by Government (*J. C. Bagram* v. *The Collector of Bhulloá*, Suth. Rep. to July 1864, Civ. Rul. 243), the High Court (*Morgan, J.*) observed generally as follows:—It is settled that the beds or channels of navigable rivers are ordinarily the property of Government. Subject to the right of navigation and such other rights as the public have to the use of navigable rivers, those rivers and the soil over which they flow belong to the State. The general rights of the Government and of the public are in no way brought in question in any of these suits. The *jalkar* (fishery) right alone is claimed. This right may, it seems, exist as private property. What was once common to all or was the property of the State may become the exclusive property of individuals. But when such an exclusive right is set up against the ordinary rights of the State and the community, it requires to be established by clear and strong proof. The evidence produced in this behalf falls very far short of the high standard of proof required to establish the plaintiff's right, but it does show some *primâ facie* right to the fishery. It amounts indeed to little more than evidence of possession and enjoyment for a series of years, but this, if unanswered, is cogent evidence of title. On the other side no evidence is offered. The proceedings of the Collector afford no legal defence. The Court is not informed of the law which he professed to put in force. The Regulations under which Government assesses revenue on land unlawfully held exempt from assessment appear to be inapplicable to the present case. Even assuming that they do apply to this description of property, their provisions do not authorize the measures adopted by the Collector. If, as was suggested on behalf of the Government, the *jalkar* rights in all navigable rivers in India are State property belonging, like waste lands, &c. to and at the disposal of the Government, we should be furnished with some authority or proof of this. Regulation XI of 1825 was referred to, but we do not think it can be inferred therefrom that Government had this right generally in navigable rivers, because the *jalkar* right in shallow streams has been recognized in some cases as the property of individuals. Admitting that in this case the river and its bed are State property subject to certain rights in the public, we must give effect to such evidence as has been adduced to establish plaintiff's exclusive right]

REGULATION XIII OF 1825.

A REGULATION *to maintain the settlement made for certain Lands held exempt from the payment of revenue by Kánúngos in the province of Bahár, and to provide for the future settlement of such lands as well as of the lands composing other resumed Lakhiráj Tenures with the present occupants, when so directed by Government.*—PASSED *by the Governor-General in Council on the 7th July* 1825.

Preamble.

Whereas it was enacted by section 5, Regulation II of 1816, that the revenue of lands held by *kánúngos* generally in the Province of Bahár in virtue of their offices should be liable to resumption, and accordingly under that

law various resumptions of lands so held took place, and the parties to whom the *zemindárí* interest in the same appeared to belong were admitted to engage for the Government revenue; but on the consideration of the proceedings held under the provisions of the above rule it appeared to the Governor-General in Council to be improper wholly to deprive the *kánúngos* or their representatives of the advantages derived from such lands and enjoyed by them for a long course of years; and it was accordingly resolved by Government on the 14th February 1822 that in cases where the lands had been occupied and managed by the *kánúngos* or their representatives and the rents received by them, they should be replaced in possession of such lands and a settlement made with them on the principle prescribed by clause second, section 8, Regulation XIX of 1793, viz the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands calculated according to the rates at which other lands in the *pargána* of a similar description may be assessed, securing to the proprietors of the soil such *malikána* or other allowance as they might have received prior to the resumption of the official *minhai* tenure: and whereas the existing laws relative to the settlement of resumed *lakhiráj* tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the *kánúngo minhaidárs* may be secured in the possession (subject to the quit-rent fixed by Government) of the land, rents and produce heretofore possessed by them: and whereas it is desirable to provide for the settlement on the same principle of any lands that may be resumed under the corresponding rules relating to *kánúngos* and their official tenures in other parts of the country: and whereas it appears to be generally expedient to make a distinct provision for securing to the holders of *lakhiráj* lands resumed by the officers of Government and assessed on the principle prescribed in clause second, section 8, Regulation XIX, 1793, the benefits which that law was designed to bestow, and to declare the competency of Government in other cases to continue the persons who have heretofore occupied lands free of assessment, or their representatives in the possession of the same, notwithstanding such lands being made subject to assessment—the following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William from the date of the promulgation of this Regulation.

Under certain circumstances *minhaidárs* and their heirs may be continued by Government in

II. In cases of *lakhiráj* tenures resumed under the provisions of Regulation IV, 1808, Regulations II and V, 1816, or any other Regulation in force relative to lands held by *kánúngos* by virtue of their offices, where the *minhai* or *lakhiráj* tenure and the right of property in the land are vested in distinct

possession of resumed lands heretofore held as *lakhiráj* tenures by *kánúngos*, subject to assessment. Restriction on parties claiming *zemindárí* interest or other proprietary right, who are prohibited from disturbing the possession of *minhaidars*, whose possession has been sanctioned by Government.

parties, it shall be competent to the Governor-General in Council by instruction to the Revenue Board or other authority empowered to make the resumption to continue the *minhaidárs* and their heirs in possession and management of such lands, subject to such assessment as he shall judge it proper to direct; and the parties claiming the *zemindárí* interest or other proprietary right in such *maháls* shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive in the event of Government having confirmed the same in perpetuity free of assessment. Persons consequently claiming to be *maliks* of the said lands, who during the continuance of the *lakhiráj* tenure had not possession of the same, whether they received a *malikána* allowance or otherwise, shall not disturb the possession of the *minhaidárs* or their heirs and representatives in any case wherein the Governor-General in Council may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession contrary to the intent and meaning of this rule shall be dismissed with costs: provided however that in all cases of the nature above-mentioned, wherein the *zemindár* or other proprietor of the land may have received *malikána* or other proprietary due during the existence of the *lakhiráj* tenure, he shall continue to receive the same, notwithstanding the resumption of the *lakhiráj*, in like manner as if such resumption had not taken place.

Proviso.

The tenures of *minhaidárs* so situated declared to be hereditary and transferable; but should they escheat to Government, the parties possessing *zemindarí* interest will be admitted to engage for the revenue, subject to a fresh assessment.

III. The tenures of the *minhaidárs*, which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but should they escheat to Government, the parties possessing a *zemindárí* interest or other proprietary right in the lands will be admitted to engage for the revenue, subject to a fresh assessment to be adjusted on the actual assets under the general Regulations.

The principles of the above sections to be applicable to all cases of *lakhiráj* resumptions coming within certain rules.

IV. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of *lakhiráj* resumptions under the general Regulations in force, which may come within the favourable rule of assessment contained in the second clause of section 8, Regulation XIX, 1793 in the Provinces of Bengal, Bahár and Orissa, or the second clause of section 8, Regulation XLI, 1795 in the Province of Benares; it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the *lakhiráj* tenures made subject to assessment by the Regulations above cited,

and whom it appeared equitable in consideration of their long possession to leave in occupancy of the lands composing their respective tenures at a moderate assessment not exceeding a moiety of the annual rent produce.

Modifications of former Regulations relative to the settlement of resumed *jagír*, *altamgha*, *madadmásh*, *aymá*, or other *badshahí* grants, and to the resumption of *lakhiráj* tenures.

V. In modification of the existing rules contained in Regulations XXXVII, 1793, XLII, 1795, and XXXVI, 1803 or any other Regulation in force relative to the settlement of resumed *jagír*, *altamgha*, *madadmásh*, *aymá* and other grants of land termed *badshahí* or royal, and generally in qualification and explanation of all the rules in force relative to the resumption of *lakhiráj* tenures and the future assessment of lands composing the same it is hereby further declared that, whenever such tenures may be pronounced invalid or extinct by a Revenue Board or other authority empowered to investigate the *lakhiráj* title in such tenures under the provisions of Regulation II, 1819 or of any other Regulation in force, it shall be competent to the Governor-General in Council on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the *zemindár*, *tálukdár* or other *malik* of the land, on his engaging for the future assessment on such terms as may be prescribed by Government; and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable and be maintained by the Courts of Judicature accordingly.

Some decisions as to *Máfí* tenures.

[A *máfí* tenure was resumed and settled with the *ex-máfídár* at Rs. 75 with a concession of Rs. 3 in favour of the *lumbardár* for the trouble of collecting, it being distinctly laid down in the settlement proceeding that the *jamá* should be paid through the *lumbardár* who was not entitled to take more. *Held* that the *ex-máfídár* could not be treated like an ordinary cultivator and served with notice for the purpose of enhancing his rent—*Syud Wazír Alí and others* v. *Patuck Dunne*, I N-W-P. Rep. Rev. Ap. 15: *Kedar Púrí* v. *Kullun Khan*, I N-W-P. Rep. Rev. Ap. 56. A, the *ex-máfídár* of resumed *máfí* lands, refused the conditions of settlement offered him at the time of resumption, and the lands were in consequence settled for a term with a stranger B. On the expiry of this term, A sued to establish his right to settlement. *Held* that in the absence of proof of right in others it was to be presumed that A, who held the land before resumption, was entitled to it: that B's only right was that which he had acquired under a settlement which had expired, and that his holding thereunder could not confer on him any right adverse to A—*Mahomed Ata-úla* v. *Mahomed Mahib-úla and others*, I N-W-P. Rep. Civ. Ap. 231. *Held* that the descendant of the vendee of a person who was admitted by Government to the proprietary settlement of a resumed *máfí* tenure was protected and could not be called upon to pay either rent or revenue—*Sheikh Ahmed* v. *Gonesh Persad and others*, II. N-W-P. Rep. Civ. Ap. 9. B, the assignee of a decree obtained by the mortgagee of a portion of a *máfí* tenure, brought to sale in execution and himself purchased the mortgagor's rights in the land. *Held* that B was entitled to call in question the *bonâ fide* character of proceedings taken before the Collector under s. 28, Act X of 1859, and to ask for a distinct adjudication as to their effect upon

his interest—*Sheikh Tülum* v. *Oomon Shunker*, II N-W-P. Rep. Civ. Ap. 117. The ex-máfidár (and therefore his assignee or privy in estate) having been left in possession of the resumed máfí tenure is entitled to make the collections and profit by them, and the *lumbardár* has nothing to say to them—*Dal Chand* v. *Mussamat Síta Kúnwar and others*, II N-W-P. Rep. Civ. Ap. 152. Five rupees nazarána was paid to Government during the existence of a máfí grant, the payment being made through the *lumbardar* of another village. After resumption and assessment the payment was continued. *Held* that Government by arranging that the payment should be made through the *lumbardar* did in effect convey to him as trustee such an interest in the estate as would enable him to sue for and enforce its payment under cl. 4, s. 1, Act XIV of 1863—*Syud Zahúr Hosen* v. *Asad Alí*, III N-W-P. Rep. Civ. Ap. 178. The *ex-máfidár* of a resumed *lakhiráj* tenure engaged to pay the revenue during the period for which the tenure was settled on its being resumed and assessed. On the expiry of this settlement, the zemindárs of the village objected to a fresh engagement for the revenue being taken from the representative of the *ex-máfidar*, whose position they contended was simply that of an hereditary raiyat. The High Court held that the mere fact of the settlement having expired was not of itself a ground to deprive the representative of the ex-máfidár of the right of being assessed at revenue rates, as proprietor of the resumed máfí land, and decreed his appeal, referring to para. 116 of the *Directions for Settlement Officers*, and remarking that "where there has been a grant of the soil" (as distinguished from a grant of the Government Revenue) "and possession has been taken thereunder, the ownership thereof vests in the grantee, although the grant as to exemption from payment of revenue may be invalid and the land subject to assessment"—*Tulsi Ram and others* v. *Narain Singh and others*, IV N-W-P. Rep. Civ. Ap. 265: see also *Hamíd-úla Khan* v. *Pran Súkh and others*, IV N-W-P. Rep. Civ. Ap. 280: and s. 4, Reg. XXXI of 1803.

Certain ghátwálí tenures were resumed by Government on the ground that the *ghátwálí* services were no longer performed or required. After resumption several temporary settlements were made with different persons and amongst others with T from whom the lands had been resumed. The temporary settlement with T expired in 1246 B. S. upon which a settlement was made with another person in consequence of T refusing to give the security that was required of him. In 1862-63 a permanent settlement was concluded with a third party. Upon this T's heir (T not having been in possession since 1246) sued to annul the permanent settlement so made and to have his own right to settlement declared, as heir to the proprietor of the resumed tenure. *Held* that he was barred by the twelve years' rule of limitation and that, with reference to s. 5, Reg. XIII of 1825, Government could not be compelled to make a permanent settlement with the person from whom the tenures were resumed, this being a matter of favour rather than of right—*Government and another* v. *Tekait Pakhairam Singh*, IV R. C. & C. R. Civ. Rul. 2, and VII. W. R. Civ. Rul. 465.]

REGULATION XIV OF 1825.

A REGULATION *to declare the extent of the authority possessed by the Revenue Authorities subordinate to the Governor-General in Council in the Confirmation of Lakhiráj Tenures, to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government, and to provide for the due application of the general laws and Regulations respecting lands held free of assessment to the territory ceded by Govind Rao to the British Government and annexed to the Zillah of Bundlekund under the provisions of Regulation II,* 1818.—PASSED *by the Governor-General in Council on the* 14*th July* 1825.

Preamble.

Whereas doubts have arisen as to the extent of the authority possessed by the Revenue Authorities subordinate to the Governor-General in Council in regard to the confirmation of *lakhiráj* tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and whereas it is enacted by clause first, section 26, Regulation II, 1819, that in suits instituted in the *Zillah* Courts to contest the decisions passed by the Revenue Boards under the provisions of that Regulation a special appeal only shall lie to the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court excepting cases ultimately appealable to the King in Council an appeal shall be received by the Sádr Díwání Adálat on special grounds only; and it appears to be expedient that the above restriction should not apply to cases wherein the decision of the Court may be opposed to the judgment of the Board of Revenue or other authority exercising the powers of that Board, but that such cases should be open to a regular appeal—the following rules have been enacted in addition to and in modification of the provisions of Regulations XIX and XXXVII, 1793; Regulations XLI and XLII, 1795; Regulations XXXI and XXXVI, 1803; of such parts of Regulations VIII and XII, 1805, as refer to *lakhiráj* lands; and of Regulation II, 1819—to be in force from the date of their promulgation throughout the provinces immediately subject to the Presidency of Fort William

Lakhiráj tenures declared not to be valid, except when granted or confirmed

II. It is hereby declared and enacted that the power of granting *lakhiráj* tenures, viz tenures of land exempt from the public assessment either for life or in perpetuity as well as of confirming such tenures, excepting by a regular judgment passed after a judicial inquiry, belongs and always has belonged

under the sanction of Government,

exclusively to the Supreme Government; and no act, order or decision granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency after the annexation of such territories to the British dominions shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the Governor-General in Council, or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity under the rules of Regulation VIII, 1811 whilst that Regulation (rescinded by section 2 of Regulation II, 1819) was in force, and subsequently under the rules of Regulation II, 1819, or any other Regulation expressly empowering the Revenue Boards after full investigation of claims to exemption from assessment under the general rules applicable to *lakhiráj* tenures to pronounce a decision against the assessment, to be considered final except on proof in a Court of Judicature of fraud or collusion in the previous inquiry: provided also that no resolution or order passed by the Lieutenant-Governor and the Board of Commissioners in the Ceded and Conquered Provinces, the Board of Revenue or other authority exercising the powers of that Board, whereby the right of Government to assess any *lakhiráj* lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government or be held to bar the Revenue Authorities from proceeding for the recovery of the public dues under the provisions of Regulation II, 1819 or any other rules in force relative to the resumption of *lakhiráj* tenures held under invalid grants.

Or confirmed by a competent Court of Judicature in a suit regularly tried and decided, or by a Revenue Board acting under special rules in a judicial capacity.

Right of Government to assess *lakhiráj* lands not barred by resolutions or orders of certain officers and authorities, except as above excepted.

Rules for trying the validity of grants made by persons previously to the acquisition of the country by the British Government.

III. *First.* The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the provinces subordinate to this Presidency previously to the acquisition of the country by the British Government.

Lakhiráj tenures, of which uninterrupted possession shall have been held exempt from assessment at and after certain dates, to be held valid: and in certain cases continued to heirs. Proviso in cases of a derivative

Second. Lakhiráj tenures, of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned, shall be and be considered to be valid without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown from the nature and denomination of the tenure that it is hereditary according to the ancient usage of the country—viz. the 12th August 1765, if the tenure be in Bengal, Bahár or Orissa (excepting Cuttack); the 14th October 1791, if the tenure be in Cuttack including Puttaspore or its dependencies: provided however that the above rule shall not apply to cases of derivative tenures wherein it may appear that the tenure is derived from a

jagírdár or other person, who at any of the periods above specified held lands free of assessment under a temporary or conditional tenure. In all such cases the parcels of the land so held shall follow the condition of the principal tenure and, if that be resumable, will consequently be liable to resumption.

tenure from a *jagírdár* or other person, who held rent-free lands under a temporary or conditional tenure. In such cases parcels of land so held to follow the condition of the principal tenure.

Third. The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure shall be on the parties claiming to hold or recover the *lakhiráj* tenure, the general principle being that the Ruling Power is entitled to a certain proportion of the produce of every *bíghá* of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto, and all parties claiming the benefit of such exceptions being bound to establish their respective claims and titles.

The proof of the title to rest with the persons claiming to hold or recover the *lakhiráj* tenure.

Fourth. Provided also that although one or more successions of any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the Governor-General in Council on a reference made to Government according to the rules in force applicable to such cases.

One or more successions to any tenure, previous to the periods above specified, not to establish a title of inheritance, unless it be of a hereditary nature.

Fifth. The Courts of Judicature and Revenue Authorities shall not recognize any potentate or person as having been vested with the supreme power within any part of the provinces subordinate to this Presidency, save and except the kings of Dehli, the *subahdárs* of Bengal, Bahár and Orissa. If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be depending shall before passing any decision thereupon refer the point to the Governor-General in Council and be guided by his determination

The Courts of Judicature and Revenue Authorities shall not recognize any potentate or authorities save the persons described in this clause to have been vested with supreme power.

Sixth. To the validity of grants made or confirmed by the kings of Dehli or by any of the rulers aforesaid it is and shall be held to be necessary;

1st. That they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate.

Conditions requisite to establish the validity of grants made by the kings of Dehli or other of the authorities above specified.

2nd. That the grantee actually and *bonâ fide* obtained possession of the land granted within the said period.

3rd. That the grant was not subsequently resumed by the officers or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the Governor-General in Council.

Specification of the periods at which the several provinces subordinate to the Presidency of Fort William were acquired by the British Government.

Seventh. The following shall be held for the purposes specified in this Regulation to be the periods at which the several provinces subordinate to this Presidency were acquired by the British Government, viz. for Bengal, Bahár and Orissa (excepting Cuttack), the 12th August 1765; for the province of Cuttack, Puttaspore and its dependencies, the 14th October 1803.

Conditions necessary to the validity of grants not made or confirmed by the supreme power.

Eighth. To the validity of grants not made or confirmed by the supreme power (excepting tenures of long possession described in the second clause of this section) it shall be held to be necessary;

1st. That they were made or confirmed by some authority which the Governor-General in Council shall have expressly declared competent to make or confirm the same.

2nd. That the grantee actually and *bonâ fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Certain questions regarding *lakhiráj* tenures resumed previously to the acquisition of the country by the British Government, to be decided by the Governor-General in Council.
Further questions to be referred to the Governor-General in Council.

Ninth. Provided also that in cases in which any *lakhiráj* tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question, whether the officer by whom or by whose order the resumption may have been made was legally competent to do so, shall in all cases wherein it may be necessary to determine this question rest with the Governor-General in Council. Moreover all questions touching the validity of grants made or confirmed by any officer subordinate to the supreme power or the legal effect of resumption by any such officer, which may not have been expressly provided for by the Regulations and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the Governor-General in Council for determination, unless the powers and competence of the officer in question shall have been previously determined by Government.

[In the case of *Maharájá Dehraj Rájá Mahatab Chand* v. *The Government of Bengal*, (IV Moo. Ind. Ap. 466), the effect of this and the preceding Regulations, taken together, on the

powers and rights of Government to resume *lakhiráj* land were carefully discussed and considered. In this case the Government had claimed to resume and assess *eighteen villages*, which had been held by the Rájá of Bardwán and his ancestors from before the Company's accession to the Díwání in 1765. In 1793 the zemindáris of the then Rájá had been attached and the collection made by officers of Government. During this attachment the title-deeds of the above villages were deposited in the Collector's office. In 1795 the attachment was withdrawn, the Maharájá was again put in charge of his zemindáris and the title-deeds were returned. In 1802 the villages were registered as *lakhiráj* in the Collector's office, but *neither the name of the grantor nor the date or year of the grant*, as required by Reg. XIX of 1793, was described. No notice of this omission was taken at the time, but it was discovered in 1836, upon which, *seventy years after the accession to the Díwání*, proceedings were commenced to resume the villages. No deed of grant was at first produced, and that returned in 1795 was not forthcoming; and on the 24th January 1837 a decree for resumption was given by the Deputy Collector. From this decree an appeal was preferred to the Court of the Special Commissioner under Reg. III of 1828 for the Division of Múrshedabád, who on the 11th August 1837 upheld the Deputy Collector's decision. A review was subsequently applied for on the allegation that a copy of the deed of grant had been obtained. On perusing this copy and some other documents the Special Commissioner was of opinion that there was no ground to admit a review of judgment and dismissed the petition. An appeal was then preferred to the Privy Council. Their Lordships observed that under Reg. XIV of 1825 lakhiráj tenures of which uninterrupted possession had been held exempt from assessment at and subsequently to the 12th August 1765 must be considered to be valid without evidence of any formal grant or confirmation of the same, and were to be continued to heirs when shown to be hereditary from the nature of the grant or from ancient usage; that the proof of possession and, in case of persons not the original grantees, of the hereditary nature of the tenure was on the persons claiming to hold the property revenue-free; that the general presumption was in favour of liability to assessment, and the claimant to hold free of assessment must establish his claim not by inferences and presumptions but by the positive proof required by the Regulations, which require proof *either* of a grant made by some one before 12th August 1765 to hold lands revenue-free and by hereditary right, under which grant possession was *bonâ fide* taken—*or* an enjoyment of lands as revenue-free and descendible to heirs at and since that time. Applying this principle to the case, their Lordships were of opinion that the claimant's title was not made out—not on the deed, because the possession of the grantee was not proved and because there was good ground to believe that the deed was fraudulent—and not independently of the deed for want of sufficient evidence of the enjoyment of the exemption, certainly for want of sufficient evidence that it was of an hereditary nature, the mere enjoyment in succession (supposing that to be inferred from the evidence) being by the express terms of the Regulations not enough. Had there been no other point to consider, the right of the Government to resume would have therefore been upheld; but the plea of limitation under cl. 2, s. 2, Reg. II of 1805, though not raised in any of the Courts in India, was put forward at the hearing before the Privy Council, and on this point the case was decided against the Government. It was contended that limitation under the above clause applied only to the Courts of Civil Justice and not to the Collector's Court; but their Lordships remarked that the principle of the Regulation would be rendered wholly nugatory, unless it were extended to the case in hand, and decided that for this purpose the Collector's Court must be considered a Court of Civil Justice. With reference to the objection that limitation not having been pleaded in India could not be urged before the Privy Council, their Lordships observed that the

proceedings in the case were not proceedings in a regular suit; that there were no pleadings, and it would be rather hard to bind the parties by an objection of so technical a nature, especially if on investigation it were found to have a valid ground of defence.]

The present Regulation not to be applicable to lands not exceeding 10 *bighás*, the produce of which is appropriated to religious or charitable uses.

IV. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation XIX, 1793, Regulation XLI, 1795, Regulation XXXI, 1803, and Regulation XII, 1805, relative to lands not exceeding 10 *bighás*, of which the produce is *bonâ fide* appropriated to religious or charitable uses.

Modification of section 26, Regulation II, 1819.

VI. In modification of the rules contained in section 26, Regulation II 1819 it is hereby enacted that in cases wherein a *Zillah* Court shall annul or alter a judgment passed by the Board of Revenue or other authority exercising the powers of that Board under the provisions of the above-mentioned Regulation, a regular appeal shall lie. The provisions of the above-mentioned section shall however still be applicable to cases in which the *Zillah* Courts may maintain the decisions of the Revenue Boards or other authorities exercising the powers of these Boards.

[See cl. 4, s. 10, Reg. III of 1828.]

REGULATION XVIII OF 1825.

A REGULATION *for annexing the Settlement of Chinsurah and other territories, ceded to the British Government by the Government of the Netherlands, to the Zillah and City Jurisdictions most contiguous thereto, and to provide for the future administration of the said territories.*—PASSED *by the Governor-General in Council on the* 25*th August* 1825.

Preamble.

Whereas in pursuance of a treaty concluded between the British and Netherlands Governments on the 17th day of March 1824 the settlement of Chinsurah and territory appertaining thereto, as well as the factories and lands held by the Netherlands authorities at Calcapore, Dacca, Fulta, Patna and Balasore in the Provinces of Bengal, Bahár, and Orissa have been ceded in perpetuity to the British Government; and whereas it is necessary in consequence to make provision for the future administration of the said settlement and territories and for annexing the same to the most contiguous *zillah* and city jurisdictions—the Governor-General in Council has accordingly enacted the following rules to be in force from the time of their promulgation.

Settlement of Chinsurah annexed to *zillah* Hooghly.

II. *First.* The town and settlement of Chinsurah shall be annexed to and included in the *zillah* of Hooghly.

Second. The late Dutch factories at Calcapore and Dacca and the lands appertaining to them shall be annexed to the city jurisdictions of Múrshedabád and Dacca respectively; those at Fulta and Balasore shall be annexed to the *zillah* jurisdictions of the Twenty-four Pargánas and Cuttack respectively; and the late Dutch factory at Patna and the lands appertaining to it shall be annexed to the jurisdiction of the city of Patna.

The Dutch factories at Calcapore and at other places annexed to the *Zillah* and city jurisdictions within which they are situated.

III. Subject to the provisions contained in this Regulation, the rules for the administration of civil and criminal justice and the police in the Provinces of Bengal, Bahár and Orissa, as well as those for the collection of the land revenue, customs, *abkarí* and stamp revenues, and generally the whole of the Regulations in force for the internal administration of the provinces above-mentioned (the special rules for Cuttack only excepted) are hereby declared to be in full force and effect in the settlement and territories specified in the preceding section from the date of the promulgation of this Regulation.

The administration of civil and criminal justice, and the collection of revenue in the above settlement and territories, to be conducted under the Regulations in force.

VI. All deeds of whatever denomination, whether written on stampt paper or otherwise, that may have been regularly and legally executed according to the Dutch law or established local usage previously to the promulgation of this Regulation, are hereby declared to be valid, and the several Courts of Civil Judicature are empowered and directed to admit such deeds in evidence; and in any judicial proceedings, that may be held on such documents, the Courts are to be governed by the law and usage under which the same were prepared and executed.

Deeds regularly executed to be received in evidence by the Civil Courts.

VII. In the decision of all civil suits regarding succession, inheritance, marriage and special contract, in which the parties may be Europeans heretofore subject to the Netherlands authorities or their descendants, and as well as generally in all cases where the parties may be Europeans or foreigners of any description or their descendants, the Courts shall be guided as far as practicable by the spirit of the rule prescribed in section 15, Regulation IV, 1793, which directs, that "in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions the Mahomadan laws with respect to Mahomadans, and the Hindú laws with regard to Hindús are to be considered the general rules by which the Judges are to form their decisions."

The decision of civil suits regarding succession, inheritance, marriage and special contract to be governed by the laws and usages of the parties.

[See *ante* pp. 169—174]

REGULATION XX OF 1825.

A REGULATION *for declaring the Jurisdiction of the Military Courts Martial and Courts of Requests constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.*—PASSED *by the Governor-General in Council on the 3rd November* 1825.

Preamble.

By an Act of Parliament passed in the 4th year of the reign of His present Majesty King George the Fourth, entitled "An Act to consolidate and amend the laws for punishing mutiny and desertion of officers and soldiers in the service of the East India Company," provision is made for the trial by Courts Martial of European British subjects, either actually serving as officers or soldiers, or otherwise attached to the army, when accused of murder, rape, robbery, theft and other offences committed in a foreign territory or at any place within the territories subject to the Presidency of Fort William situate at a greater distance from that Presidency than one hundred and twenty miles. It has in consequence become necessary to rescind or modify certain parts of the Regulations in force, which relate to the apprehension or trial of British subjects accused of criminal offences and to the cognizance of petty offences by a military tribunal.—The following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

European British subjects, being persons attached to the army serving within certain limits, when apprehended by Magistrates on charges of a criminal nature, to be delivered over to the Commanding Officer of the corps to which they may belong.

II. *First.* In modification of the rules contained in Regulation II, 1796, section 19, Regulation VI, 1803, and Regulation XV, 1806 it is hereby provided that, if any European British subject, who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found on his apprehension to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier serving with any body of troops in the service of His Majesty or of the Honorable East India Company at any place not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in sections 45 and 50 of Statute IV Geo. IV Cap. LXXXI, it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above-mentioned, to deliver over such person so charged together with a

statement of the charge brought against him to the Commanding Officer of the regiment, corps or detachment to which such accused person shall belong, or to the Commanding Officer of the nearest military station, for the purpose of his being brought to trial before a Court Martial under the provisions of the said Act of Parliament.

[Regs. II of 1796, VI of 1803, and XV of 1806 have been repealed. The rules for the arrest of prisoners are now contained in the Code of Criminal Procedure.]

Magistrates, on application made to them by a Commanding Officer, to assist in the apprehension of all persons amenable to trial by Court Martial, when accused of criminal offences.

Second. It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the Commanding Officer of any regiment, corps or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance and that of the officers under his control in securing the person so accused.

Magistrates required to enforce processes for attendance of witnesses, &c. before Courts Martial, on application made to them.

Third. It is hereby declared, that it shall be competent to the Judge Advocate-General or Deputy Judge Advocate or other person, appointed to conduct the proceedings of any Court Martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the Magistrate of the *zillah,* within whose jurisdiction persons whose attendance before such Court Martial is required may reside, any warrant, summons or other process for the attendance of such person; and it shall be the duty of such Magistrate, who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process and generally to aid and assist in the execution of all processes issued by such Courts Martial.

Magistrates prohibited from inquiring into charges of a criminal nature preferred against British subjects, when attached to the army within certain limits, and who may have been already tried by a Court Martial for the same.

Proviso for cases in which the Magistrate shall have duly ascertained that the

Fourth. The several *Zillah* and City Magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in section 2 of Statute IV Geo. IV, Cap. LXXXI, which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial under the provisions of the said Act and acquitted or convicted by the sentence of a Court Martial of such offence: provided however that in any case, wherein it may be ascertained by the Magistrate on due inquiry that any person accused of such criminal offence, who may be subject to trial by Court Martial, has not been brought to trial for such offence before a Court Martial, and that no effectual proceedings have been taken or have been ordered to be taken against him, then and in that case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor-General in Council, who, if it

accused neither has been nor will be tried by a Court Martial.

appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.

Magistrates will proceed as heretofore against British subjects accused of criminal offences, when such persons are not attached to the army or amenable to trial by Court Martial.

Fifth. Provided always, and it is hereby declared that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army or subject to be tried for such offences by a Court Martial.

These provisions not to apply to troops in Fort William, or stationed at any other place which is not situated above 120 miles from the Presidency.

Sixth. It is hereby further declared that the provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier or other person attached to the army, being British subjects, shall not be held to apply or be in force, when such offences shall be committed by persons of the above description attached to any body of troops which may be stationed in the Garrison of Fort William, or at Barrackpore, Midnapore, Dum-Dum or at any other place within the territories under the Presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said Presidency; and in all such places the powers and authorities vested by law in the Magistrates and Justices of the Peace shall continue to be and remain in full force and effect.

Case of *The Queen* v. *Jackson.*

[In the case of *The Queen* v. *William Jackson* (XIII B. L. R. 474, and XXII W. R. Crim. Rul. 20) the prisoner, a soldier in the 22nd Regiment stationed at Hazaríbâgh, was charged before the Deputy Commissioner of Hazaríbâgh with the murder of a comrade, and was committed to take his trial at the Criminal Sessions of the High Court. After the committal, but before the trial, an application was made to the High Court by the Law Officers of the Crown to have the committal quashed and the prisoner made over for trial to the Military Authorities, on the ground that, under this Regulation, an offence committed at a distance of more than 120 miles from the Presidency town by a person subject to military law was cognizable only by the military tribunals and not by the Civil Courts. The facts were that the Deputy Commissioner received from the Adjutant of the Regiment on the 15th May 1874 a letter, informing him that Private Taylor had been shot by a comrade on the previous night. The Deputy Commissioner treating this as a request to him as a Magistrate to take the usual proceedings in the matter (and the High Court thought that he was justified in so treating it) replied, requesting that the culprit should be made over to the police and that the case should be brought up for preliminary inquiry on the following day, when the witnesses and the prisoner should be produced before him. The witnesses and prisoner were produced accordingly and the commitment was at once made. Under these circumstances the High Court considered that the proceedings were taken at the request and with the assent and concurrence of the Military Authorities, and that the

question to be determined therefore was whether the proceedings so taken were void as being in contravention of this Regulation. It was held, *first*, that the Regulation was rescinded in Hazaríbágh by Reg. XIII of 1833:[1] and *secondly*, that, even if this were not so, these proceedings were not in contravention of the Regulation. Markby, J. said—"The jurisdiction of the Civil Magistrate in a case of this kind can only be taken away by the express words of the Legislature, and in coming to a conclusion as to whether or not this has been done by this Regulation I think we ought to see what were the provisions of the English Statute which led, as it appears from the preamble, to the passing of this Regulation. It is contended for the Crown that, even upon the English Statutes, the jurisdiction of the Civil Magistrate is taken away. But certainly I am unable to come to that conclusion. The Statute 4 Geo. IV, c. 81, which led to the passing of Reg. XX of 1825, no doubt does say in s. 3, that 'if any person liable to be tried by a Court Martial for an offence alleged to have been committed at a place in India above 120 miles from the Presidencies of Fort William, Fort St. George and Bombay respectively, and for which no proceeding shall have been commenced in any ordinary Court of competent civil or criminal jurisdiction, shall be apprehended by the authority of or brought before any Magistrate for such offence, it shall and may be lawful for such Magistrate and *he is hereby required* to deliver over such accused person to the Commanding Officer of the Regiment,' and so forth. No doubt the words 'he is hereby required' are imperative words and, so far as regards the matter to which they relate, they undoubtedly compel the Magistrate to comply with this Act. But then I think it is quite clear upon these words, and looking to the words of the 16th section, that the jurisdiction of the Civil Magistrate is not altogether excluded, because the 16th section says that 'nothing in this Act contained shall extend or be construed to exempt any officer or soldier whatsoever from being proceeded against by the ordinary course of law, unless such officer or soldier shall have been tried by a Court Martial in the manner hereinbefore directed, in respect of offences committed within the territories of any foreign state or in any country under the protection of His Majesty or the said United Company or at any place in the territories of the said United Company situate above 120 miles from the said Presidencies of Fort William, Fort St. George and Bombay respectively.' I think therefore that it is clear upon this Statute that the state of things which was intended to be introduced was this, that, if the Military Authorities choose to do so, they have power to require persons to whom this provision relates to be handed over to them and can deal with them for the offences which they have committed; but, if they do not choose to do so or if they desire it, then the Civil Magistrate can deal with such cases. The words of 3 and 4 Vict. 37 are not identically the same as those of 4 Geo. IV, c. 81; but I think the words of that Act also give, not exactly concurrent jurisdiction, but rather (I would say) preferential jurisdiction to the Military Authorities in cases occurring more than 120 miles from the Presidency town. Now that being so upon the English Statutes, we have now to consider the words of Reg. XX of 1825. Of course it may very well be that the authorities here might choose to restrict the power of the Civil Magistrate within narrower limits than the Imperial Parliament thought fit to do. I have, however, come to the conclusion that in substance the provisions are the same. The first clause of the second section of the Indian Statute provides (*reads.*)

Then again the words of the section are, as in the English Acts, imperative upon the Magistrate. But the question still remains whether these words do entirely exclude him from all jurisdiction whatsoever in the matter. Now there is no doubt that this Act in one respect is stronger against the jurisdiction of the Magistrate than the English Act; it does not contain

[1] But now consider Schedule IV, Act XV of 1874.

anywhere any express saving of the authority of the civil power as is contained in the Acts of the Imperial Parliament. But in the fourth clause of that section, where the Magistrate was intended to be entirely prohibited, the prohibition is contained in express terms. That clause says that (*reads*). Now the only case in respect of which the Act contains an express prohibition altogether to the Magistrate from interfering is the case in which the accused has been regularly tried and either acquitted or convicted by a Court Martial, and that seems to me to indicate that this was the only prohibition intended. Then there follows a proviso which, no doubt, at first sight may seem to point out that in all other cases the Magistrate is also prohibited, but on further consideration it appears to me that it is not so. The proviso is this, that 'in any case wherein it may be ascertained by the Magistrate on due enquiry that any person accused of such criminal offence, who may be subject to trial by Court Martial, has not been brought to trial, and that no effectual proceedings have been taken or have been ordered to be taken against him,' then the Magistrate is to refer the matter to the Governor-General in Council, who will give him proper directions how to proceed; and the Magistrate, if so authorized, shall be competent to proceed against the offender. Now I think that that proviso was put in to meet this class of cases. The second section provides what the Magistrate is to do when the prisoner has been apprehended by or brought before him, and then it is clearly his duty to hand him over to the Military Authorities, if they are willing to take him. The fourth clause on the other hand, I think, provides for the cases in which the prisoner has not been apprehended by or brought before the Magistrate; but if the Magistrate finds upon enquiry that an offence has been committed and that the Military Authorities have not taken and are not about to take any steps to bring the offender to trial, then he can refer the matter to the Governor-General in Council. I think that that proviso was put in to prevent, on the one hand, the offender from being let go unpunished, and at the same time not to allow the Magistrate to assume any power which might bring him in conflict with the Military Authorities.

I do not wish to deny that I have to make this conclusion upon the Regulation with considerable hesitation, because, if this Regulation stood alone and it was now for the first time that it had to be considered, there are, every one must admit, some expressions in it which might seem to show that the civil authority was entirely to be excluded. But that that was not the intention of the Imperial Statute, and that this Regulation was only intended to carry out in India in a convenient way the principle which had been already laid down by the Imperial Acts is, I think, shown by the way the Regulation has always been understood in India. We must recollect that this Regulation has now been in force for nearly fifty years and, as far as we have been able to discover, the construction which has been put upon it, not by express decision (because, as far as I am aware, the question has never been expressly decided until now), but by the practice of the Courts in the administration of criminal justice, I believe to be that the jurisdiction of the Civil Magistrate is not thereby entirely ousted. It is certainly within my own knowledge that several soldiers have been sent up to this Court to be tried from places situate above 120 miles from Calcutta, and it was not denied that many prisoners so sent up had also been tried by the late Supreme Court. Now, with regard to the prisoners who were tried by the Supreme Court, it was argued, and I think correctly argued, that there the jurisdiction would not be touched by Reg. XX of 1825, and that therefore in the Supreme Court, and also in the High Court down to the year 1865, when the Grand Jury was abolished, there might be no objection to the trial of such prisoners under this Regulation. But nevertheless until the year 1865 it is perfectly well known that, as a matter of fact, no trial except on very rare occasions, that is, no ordinary trial did take place merely upon the presentment of the Grand Jury; and

that the prisoners were always sent up here to be tried under the commitment of a Magistrate. We therefore cannot escape from this, that if the construction which is now sought to be put upon this Regulation is a correct one, then in every one of these cases, at any rate until the prisoner arrived at this Court, the custody was illegal and all the proceedings were illegal; and, if the construction which was sought to be put upon the Imperial Statute is also correct, as far as I can see, all the proceedings in the Supreme Court and the High Court would have been illegal, because, if the English Statute were to be taken as containing a prohibition of the civil power, then that would apply to the High Court and Supreme Court just as much as to the Magistrate of the district. The words 'Civil Magistrate' in the English Acts are the words which are always used in these acts to express the Civil Power as distinguished from the Military Authorities, and do not refer to a Magistrate holding inferior powers as distinguished from Courts having full jurisdiction to deal finally with the case. It will be found that prisoners are constantly spoken of as being tried and convicted or acquitted for such crimes as theft, robbery or murder, &c. by the Civil Magistrates. Now, if the contention that the English Statute prohibits the Civil Magistrate is good, it prohibits the jurisdiction of the High Court just as much as the jurisdiction of a Magistrate and all such trials were without jurisdiction. But even if the prohibition depends upon that Regulation, then all the proceedings up to commitment were illegal and every trial which has taken place since the Grand Jury was abolished has been upon an illegal foundation, because since that time the commitment by the Magistrate and the charge drawn up by him are the foundation of the trial by the High Court, and they were all illegal. I think that we may well hesitate before coming to any such conclusion. And under these circumstances it appears to me that, having regard to the principles laid down by the Imperial Statute and to the course of practice which has been adopted in this country, we should not be justified in saying more than that the Military Authorities can require a Magistrate to hand over to them any prisoner who may be apprehended and brought before him for an offence committed at a place more than 120 miles from Calcutta; but that the proceedings before a Magistrate, when they are taken at the request of and are assented to by the Military Authorities, are not absolutely void and that a commitment so made is not an invalid commitment. That seems to me to be a reasonable construction of the Regulation and of the Statute. If the Military Authorities choose to assert their claim to deal with the case and punish the offender, they can do so at the proper time. But if they choose to hand the prisoner over to the civil power, they can do that also."]

Magistrate may exercise jurisdiction at the request of the Military Authorities.

III. *Second.* The power given to the Magistrates of districts by section 106 of Statute LIII, Geo. IIIrd. Cap. CLV, to take cognizance of debts not exceeding 50 rupees alleged to be due from British subjects to natives of India and to pass a summary decision on the same in so far as regards claims on officers or soldiers being European British subjects, is also repealed by section 57 of Statute IVth, Geo. IVth, Cap. LXXXI.

Certain powers heretofore vested in the Magistrates, in the cognizance of debts due by British subjects declared to be no longer in force.

Third. Officers and soldiers being European British subjects will still be subject to the jurisdiction of the local Courts of Civil Justice under the provisions of section 107, of Statute LIII, Geo. IIIrd., Cap. CLV, except in actions of debt and personal actions not exceeding 400 rupees in value or amount.

British subjects attached to the army, declared still amenable to local Courts for debts exceeding 400 rupees.

[Section 1, Act XI of 1836, enacts that 53 Geo. III, Cap. 155, s. 107, shall cease to have effect after 1st June 1836, but see s. 2, *id.* Act XI of 1836 was repealed by Acts X of 1861 and

VIII of 1868. Section 4, Act VIII of 1859 however now enacts that no person *whatever* shall by reason of place of birth or by reason of descent be in *any* civil proceeding whatever excepted from the jurisdiction of *any* of the Civil Courts.]

To what extent the provisions of section 2, Regulation XX, 1810 will still remain in force.

Fourth. The provisions of section 22, Regulation XX, 1810 will still remain in force, so far as they relate to actions of debt and personal actions against officers, soldiers and retainers of the description therein specified or referred to, not being European British subjects within the provisions referred to in the first clause of this section.

[The provisions referred to in the first clause are those contained in IV Geo. IV. Cap 81, Section 57.

Section 1, Act XI of 1841 repeals all Regulations and parts of Regulations concerning Military Courts of Requests. Section 22, Reg. XX of 1810 is therefore no longer in force; and the law relating to such Courts is now contained in Act XI of 1841. See also Acts XII of 1842, III of 1859, XI of 1865, and XII of 1868.

The 99th section of the *Mutiny Act* is as follows:—

Ninety-ninth section of the Mutiny Act.

"In all places in India where any body of Her Majesty's forces may be serving, situate beyond the jurisdiction of any Court of Small Causes established by or under the authority of the Governor-General of India in Council, actions of debt and all personal actions against officers or against persons licensed to act as sutlers or other persons amenable to the provisions of this Act not being soldiers shall be cognizable before a Court of Requests composed of military officers and not elsewhere, provided the value in question shall not exceed four hundred rupees and that the defendant was a person of the above description when the cause of action arose, which Court the Commanding Officer of any camp, garrison, cantonment or military post is hereby authorized and empowered to convene.——Whenever owing to paucity of officers, or to any other cause a Court of Requests cannot conveniently be held at the station where the defendant or defendants may be, it shall be lawful for the officer commanding the division or district to authorize the assembly of a Court by the officer commanding at the nearest place where such Court can be formed.——Courts of Requests shall in all practicable cases consist of five commissioned officers and in no instance of less than three, and the President thereof shall in all practicable cases be a field officer and in no case be under the rank of a captain, and every member shall have served five years as a commissioned officer:——and the President and members assisting at any such Court, before any proceedings be had before it, shall take the following oath, which oath shall be administered by the President of the Court to the other members thereof, and to the President by any member having first taken the oath; (that is to say),

'I swear, that I will duly administer justice according to the 'evidence in the matters that shall be brought before me.

'So help me God.'

And all witnesses before any such Court shall be examined in the same manner as in the case of a trial by Court Martial.——All actions of debt and personal actions against persons not being soldiers amenable to this Act within the jurisdiction of any Court of Small Causes shall be cognizable by such Court to the extent of its powers; and all such actions where the amount sued for exceeds four hundred rupees shall be cognizable by a Civil Court or Court of Small Causes only; and it shall be competent for any Civil Court or Court of Small Causes or for any Military Court of Requests held in lieu thereof under the authority of this section, upon finding or awarding any

debt or damage, either to award execution thereof generally or to direct specially that the whole or any part thereof shall be stopped and paid over to the plaintiff out of any part not exceeding one-half of any pay or allowance, or out of any other public money which may respectively be coming to the defendant in the current or any future month or months, or to direct the same to be so paid by instalments.——In regard to awards of execution general Civil Courts and Courts of Small Causes shall proceed in accordance with the rules of procedure for such Courts in India;——and in all cases where execution shall be awarded generally by a Military Court of Requests, the debt, if not paid forthwith, shall be levied by seizure and public sale of such of the defendant's goods and property as may be found within the camp, garrison, cantonment or military post, under a written order of the commanding officer grounded on the judgment of the Court;——and all orders of such commanding officer as to the manner of such sale, or the person by whom the same shall be made, or otherwise respecting the same shall be valid and binding;——and any goods and property of the defendant found within the limits of the camp, garrison, cantonment or military post to which the defendant shall belong at any subsequent time shall be liable to be seized and sold in like manner in satisfaction of any remainder of such debt or damages;——and, if any question shall arise whether any such effects or property are liable to be taken in execution as aforesaid, the decision and order of the said commanding officer shall be final and conclusive with respect to the same, and if sufficient goods shall not be found within the limits of the camp, garrison, cantonment, or military post, then any public money or any part not exceeding one-half of the pay or allowances accruing to the defendant shall be stopped in liquidation of such debt or damages;——and if such defendant shall not receive pay as an officer or from any public department, but be a sutler, servant or follower, he may be arrested by like order of the commanding officer, and imprisoned in some convenient place within the military boundaries for any period not exceeding two months, unless the debt be sooner paid;——and the said commanding officer shall not, nor shall any person acting on his orders in respect of the matters aforesaid incur any liability to any person or persons whomsoever for any act done by him in pursuance of the provisions aforesaid;——and in cases where the said Court shall direct specially that the whole or any part of the debt or damages shall be stopped and paid out of part of any pay and allowances or out of any public money, the same shall be stopped and paid accordingly in conformity with direction:——provided always that nothing hereinbefore contained shall enable any such action as aforesaid to be brought in a Military Court of Requests by any officer or soldier against any officer:——provided also that the articles of military equipment of any defendant shall not be deemed "goods and property under this section."[1]]

Course to be followed in case of a witness refusing to be sworn before a Military Court.

IV. Whenever a witness in attendance before a general Court Martial or other Military Court duly authorized to administer an oath shall refuse to be sworn, and the Court shall be of opinion that the testimony of such witness is essential and that there is no sufficient reason to exempt him from taking the oath, the Judge Advocate-General or other officer conducting the proceedings of the Court shall be authorized to forward such witness with a written statement to the *zillah* Magistrate or Joint Magistrate within whose jurisdiction the Court

[1] See *Hossini Khitmatgar* v. *Dickenson*, II B. L. R. Short notes iii, and IX W. R. 112: *Mussirudin* v. *Khuda Baksh*, II B. L. R. Short notes vii, and X W. R. 386: *Bastain* v. *Tireman*, II Mad. H. C. Rep. 389: *Abú Sait and Co.* v. *Arnott*, II Mad. H. C. Rep. 439.

Inquiries to be made by the Magistrates and Joint Magistrates.

may be held, and the Magistrate or Joint-Magistrate is hereby directed to make such inquiries into the case as may satisfy him that the witness ought or ought not to be exempted from taking an oath. If the Magistrate or Joint-Magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own Court. On the other hand if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the Judge Advocate-General or other officer above referred to, and shall not impose any penalty on such witness.

REGULATION III OF 1827.

A REGULATION *for modifying and amending the rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature who may be guilty of Corruption or Extortion.*—PASSED *by the Governor-General in Council on the* 1st *November* 1827.

Record of criminal conviction sufficient for compelling the refund of property corruptly taken or extorted.

V. From and after the date of this Regulation it shall not be necessary for any party, from whom money or property may have been corruptly taken or extorted, to institute a civil action for the recovery thereof; but on proof of the charge in a criminal prosecution for those offences a certified copy of the conviction by a Court of Circuit or the Nizámat Adálat shall be received as sufficient authority for enforcing the refund of the amount or value so taken with interest, on application to that effect being preferred by the aggrieved party to the Civil Court on the stampt paper prescribed for miscellaneous petitions.

REGULATION V OF 1827.

A REGULATION *for modifying the rules at present in force for the Management of Estates under Attachment by orders of the Courts of Justice in certain cases.*—PASSED *by the Governor-General in Council on the* 27*th December* 1827.

Preamble.

Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land revenue—the following rules have been enacted by the Governor-General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

II. The rules contained in sections 5 and 6, Regulation V, 1799, and clauses fifth and sixth, section 16, Regulation III, 1803 regarding the administration and management of estates under orders of the *Zillah* Courts are hereby declared subject to the following modifications.

Modification of certain Regulations regarding the management of estates under attachment.

III. Whenever the *Zillah* Courts may deem it just and proper under the provisions of the several Regulations abovementioned to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment and to appoint a person for the due care and management of the estate under good and adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof; provided however that, if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Rules for the issue of precept for holding estates under attachment, and for appointing managers.

IV. The precept of the *Zillah* Court abovementioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

The precept shall specifically state the property to be included in the attachment.

[When a precept has been issued to a Collector under the above section directing him to hold an estate in attachment, the Judge who issued such precept has jurisdiction to make an order with regard to the surplus proceeds of the estate, and to direct the Collector to pay over such surplus proceeds to the joint proprietors of the estate according to their respective shares or otherwise—*In the matter of the petition of the Collector of Rungpore*, B. L. R. Sup. Vol. F. B. 655: II In. Jur. 178: VII W. R. Civ. Rul 273; and III R. C. & C. R. Civ. Rul. 184.

A Judge made an order under s. 26, Reg. V of 1812, as modified by the above Regulation, that a certain estate should be attached. The Collector proceeded to carry out this order. A question arose as to whether certain holdings belonged to the joint estate. The Collector considered that they did and attached them. The Judge held an inquiry and directed their release. The High Court in the exercise of its superintending authority set aside this order as made without jurisdiction, holding that the Judge having made the order for attachment was *functus officio;* and that it then lay upon the Collector, who is the person indicated by the Regulations as the manager and holder of the estate, to take at his own proper risk and upon his own responsibility everything that he found to be part of the joint estate, the party aggrieved having his remedy, if he took anything beyond that—*In the matter of Ram Rangini Dasi*, XXII W. R. 212.

A Judge attached under the provisions of s. 200 of Act VIII of 1859 certain *ijara* property of a judgment-debtor in order to compel him to obey a decree of Court. *Held* that he had

no power to direct the Collector to manage property attached under these circumstances—*In the matter of the petition of the Collector of Noakhally*, XX W. R. 78.

There is no appeal to the High Court against an order of a District Judge under this Regulation issuing a precept to a Collector to hold an estate in attachment and appoint a manager—*In the matter of the petition of the Collector of Faridpore*, XII B L. R. 366, and XX W. R. 262.]

REGULATION III OF 1828.

A REGULATION *for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue Authorities in regard to lands or rents occupied or collected by individuals without Payment of the Revenue demandable by Government under the general law of the country, and for otherwise more effectually securing the Realization of the Public Dues.*—PASSED *by the Governor-General in Council on the* 12*th June* 1828.

Preamble.

By the provisions of Regulation II, 1819 and other Regulations subsequently enacted Collectors and other local Revenue Officers throughout the provinces subordinate to this Presidency have been empowered, with the sanction of the Boards of Revenue, to institute inquiries with a view to the resumption and assessment of all lands held free of rent or at an inadequate rent under invalid tenures; Commissioners have likewise from time to time been appointed under the orders of Government to maintain and enforce the public rights in different districts, in which extensive tracts of country unowned and unoccupied at the time of the perpetual settlement are now liable to assessment, or being still waste belong to the State. It was at the same time provided in the Regulations above adverted to that in all cases, in which the Revenue Officers might declare the lands of any individual liable to assessment, the party might contest the decision by suit in one of the ordinary Courts of Justice, such provision having been made with the intention that the decisions of the Collectors and the Boards should be held and considered to be judicial awards, and that the suits preferred to the ordinary Courts being of the nature of appeals should be speedily disposed of. It has however appeared that partly from the number of cases in question, partly from the practice of the Courts in treating the appeals made to them as original suits, and partly from other causes little or no progress has been made towards the settlement of the matter, and heavy arrears of such cases have accumulated in several of the Courts and Boards of Revenue; that the existing laws have not been adequate to secure for the Revenue Authorities the information required; and that consequently, while on the one hand a large amount of revenue continues to be usurped without any just pretence and the improvement of the country is hindered by frivolous and litigious claims, on the

other hand the owners of valid tenures are disquieted and disturbed. To remedy the aforesaid evils it appears to be expedient to appoint *Special Commissioners* competent to determine finally all cases of the nature above described within such local limits as may from time to time be deemed necessary, to declare the intent and meaning of the existing Regulations in regard to suits preferred to the ordinary Courts relative to such cases, and to provide that all successions to the possession of land or rent free of assessment, whether by sale, gift or inheritance shall be regularly reported to the Revenue Authorities. It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local enquiry conducted by the Commissioner specially appointed to the duty and the surveyors under his authority, and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen.—The following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the provinces immediately subordinate to the Presidency of Fort William.

Special Commissioners to be appointed for the purpose of determining cases investigated by Collectors under the rules of Regulation II, 1819 and other similar provisions.

II. *First.* It shall be competent to the Governor-General in Council to appoint one or more Special Commissioners, as may be judged expedient, for the final determination of all cases which have been or may be investigated by Collectors, Deputy Collectors or other officers exercising in that behalf the powers of Collectors under the rules of section 5, and the fifteen subsequent sections of Regulation II, 1819, and of section 5, Regulation IX, 1825, subject to the provisions hereinafter enacted; and the Commissioner or Commissioners so appointed shall similarly determine all suits which may be brought to contest the demand of the Revenue Officers on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public revenue.

The jurisdiction of the Special Commissioner or Commissioners to extend to such districts or portions of districts as Government may direct. Government competent to fix and appoint the functions of each Commissioner, and

Second. The jurisdiction of the Special Commissioner or Commissioners appointed as above shall extend to such districts or portions of districts and for such periods, as the Governor-General in Council may direct; and it shall be competent to the Governor-General in Council to fix and appoint the functions to be discharged by each Commissioner and to assign to him such local jurisdiction as may from time to time appear proper.

Third. Whenever any Commissioner or Commissioners shall be vested by the orders of the Governor-General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the

to assign such local jurisdiction as may appear proper. Notice of jurisdiction vested in Commissioner or Commissioners, how to be published.

kachahrís of the Judge and Collector of such district and shall likewise be communicated to the *Zillah* Courts concerned.

Courts to suspend the exercise of the powers vested in them in regard to all cases cognizable by the Commissioners, on being apprized of their appointment. And to stay all proceedings in such cases, until apprized that the local jurisdiction of the Commissioner has ceased. Records of such cases pending before the said Courts to be forthwith transmitted to the Commissioner. No appeal to lie to Courts from decisions of the Board of Revenue or Collectors, in regard to the revenue of lands within such local division, passed before or pending the appointment of a Commissioner.

Fourth. Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a Commissioner or Commissioners to exercise the powers specified in this Regulation within any *zillah* or other local division, the powers heretofore vested in and exercised by the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the Special Commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they shall be apprized that the local jurisdiction of the Commissioner or Commissioners has ceased; and further the said Courts shall forthwith transmit to the Commissioner the records of all cases of the above nature which may be pending before them: provided also that no appeal shall lie to any of the established Courts of Judicature from any decision which has been or shall be passed by the Board of Revenue or a Collector in regard to the revenue of any lands lying within such local division previously to or pending the appointment of a Special Commissioner.

[A Civil Court is not competent to question a resumption decree, but where the Revenue Authorities are alleged to have taken, under colour of executing a resumption decree, lands which were never resumed at all, the Civil Court has jurisdiction to try this allegation and, if it be established, to give plaintiff possession of such lands—*Rájá Lílanand Singh and others* v. *Lachmípat Dúkar*, II Sev. 788.

"The Lower Appellate Court is clearly wrong in supposing that the resumption by Government of the parent estate, within which the disputed hawalah is situated, nullified all rights which the special appellant enjoyed before the date of the resumption, and therefore deprived him of the benefit of the presumption arising from the provisions of s. 16, Act X of 1859"—*Muthúranoth Gangopadhya* v. *Sita Maní*, IX W. R. Civ. Rul. 354.

A *talúk* was after resumption settled with thirteen persons. *Held* that no presumption arose therefrom as to their shares being each one-thirteenth, the settlement proceedings showing clearly that the question of the extent of their shares was in dispute between the coparceners, and that the settlement was made jointly with them all without prejudice to title—*Gúrú Charan Podar and others* v. *Hafiza Bibí*, VII W. R. Civ. Rul. 366.

Resumption proceedings were going on between Government and A. Lands claimed by B were included in the measurement of a certain plot amongst the lands to which the resumption related. B preferred an objection to the Collector who dismissed it. An appeal was made to the Special Commissioner, who rejected the claim on the ground that he had no jurisdiction. B was not alleged to have been dispossessed, and he was in possession at the time of bringing the suit. *Held* that the plaint should have been rejected as disclosing no cause of action—*Shibú Súndarí Debya and others* v. *The Secretary of State and others*, VII W. R. Civ. Rul. 373.]

Fifth. In all cases which have been decided by the Boards of Revenue before the jurisdiction of a Commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would but for the extension of such jurisdiction have been entitled to appeal to the ordinary Courts of Justice under the rules contained in sections 22 and 24 of Regulation II, 1819 and section 5, Regulation IX, 1825, an appeal shall lie to such Special Commissioner and the cases shall be heard and determined in the same manner as appeals preferred to that authority from the decisions of Collectors under this Regulation.

In cases decided by the Board of Revenue, in which parties would have been entitled to appeal to the Courts, an appeal to lie to the Commissioner, and the cases to be heard and determined in the same manner as appeals from Collectors under this Regulation.

[In modification of Cls. 4 and 5 it has been enacted by Cl. 1, s. 2, Reg. IV of 1829, that, whenever the act or judgment appealed against may have been done or passed by a Special Commissioner appointed under Reg. III of 1828, such cases shall not be cognizable by the said Commissioner, whether he may have been at the time when such act or judgment was done or passed by him, exercising the powers of a Collector or Member of a Board of Revenue, or a Judge of a Zillah or City Court.]

Sixth. Notice of the appointment of the Commissioner to exercise the powers specified in this Regulation in any district or other local division shall likewise be communicated to the Boards of Revenue or other Board exercising control over the Revenue Officers of such district or division, and on the receipt of such communication the powers vested in the said Boards under the provisions of Regulation II, 1819 and Regulation IX, 1825 (with exception to the powers specified in section 4 of the last mentioned Regulation) shall be suspended within the said district or division; and the said Board shall immediately stay all proceedings in cases thereunto belonging, which may be depending before them under the provisions of the above Regulations, as well as in all other cases relating to the said district or division of the nature described in the preamble to this Regulation, and shall forthwith transmit to the Commissioner the records of all such cases.

Notice of appointment of Commissioner to be communicated to Boards of Revenue or other Board exercising revenue control, who will on the receipt of such communication suspend the exercise of the powers vested in them under Regulation II, 1819 and IX, 1825, with the exception stated.

Seventh. When any suit may be transferred by a Court of Justice or a Board of Revenue to a Special Commissioner under the provisions of this Regulation, the Commissioner or Commissioners by whom such suit shall be decided shall determine the amount of remuneration to be assigned to the *vakíls*, who may have been employed by the parties in conducting such suit before the Court or Board from which it may be transferred, and generally how any costs previously incurred shall be borne. All sums which may have been deposited in such Court or Board on account of *vakíls*' fees shall be kept in deposit until the case is decided, when the amount awarded to the *vakíls* by the Commissioners shall be paid to them.

In suits transferred from the Courts or Boards under this Regulation, all sums which may have been deposited as *vakíls*' fees shall remain in deposit till the case is decided, and the *vakíls*' fees as well as all other costs shall then be paid as may be awarded in the decree of the Commissioner.

Whenever the jurisdiction of a Commissioner shall be declared to extend to any district or other local division, it shall be competent to Government to invest such Commissioner with any or all the powers of the Board of Revenue.

III. Whenever the jurisdiction of a Commissioner shall be declared by the orders of Government to extend to any district or other local division, it shall be competent to the Governor-General in Council to invest such Commissioners with any or all of the powers vested by the Regulations in force in the Boards of Revenue.

On the establishment of a Commissioner's jurisdiction in any particular district, the Collector or other local officer may institute inquiries under Regulation II, 1819, and Regulation IX, 1825, without previous sanction of the Board. In all other cases he is to proceed in the manner provided for in those Regulations. And having closed his proceedings he will record his judgment as to the liability of the lands to assessment or otherwise. Such decision to have the force and effect of a decree, and copy to be furnished to the party.

IV. *First.* When the jurisdiction of a Commissioner shall have been established in any particular district, it shall be competent to the Collector or other local Revenue Officer of such district to institute the inquiries specified in Regulation II, 1819 and Regulation IX, 1825 in regard to any lands which he may have reason to believe are held free of assessment or at an inadequate *jamá* under an invalid tenure, or which being unoccupied he may consider to be public property, without previously applying for the sanction of the Board of Revenue. In all other respects however he is to proceed to the investigation of the case in the manner provided for in Regulation II, 1819, and Regulation IX, 1825, accordingly as the one or other may apply to the case, and having closed his proceedings he shall record his judgment as to the liability of the lands to assessment or otherwise in the manner directed in section 20 of the first mentioned Regulation, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.

If the judgment is for assessment, the party against whom the decision is passed to be at liberty to appeal to the Special Commissioner within two months.

Second. If the decision of the Collector shall declare the lands liable to assessment or shall adjudge them to be the property of Government, it shall not be necessary for him to transmit his proceedings to the Board of Revenue or to the Special Commissioner; but the party against whom such decision is passed shall be at liberty to appeal from the same to the Special Commissioner within two months from the date on which a copy of the decision may have been tendered to him by the Collector: but it shall be competent to the Commissioner

to admit an appeal after the expiration of the above period on sufficient cause being shown why it was not sooner preferred: provided also that petitions of appeal may at the option of the party be either presented to the Special Commissioner or delivered to the Collector for transmission to that authority.

Appeals may be admitted by Commissioner after that period on sufficient cause shown. Petitions of appeal may be presented to the Commissioner, or delivered to the Collector for transmission to him.

Third. It shall and may be lawful for the Collector, whether an appeal be filed or not, immediately to carry into effect his decision by attaching and assessing the land; reporting his proceedings for the information and orders of the Board, or of the Commissioner if vested with the powers of the Board: provided however that in cases appealed to the Commissioner it shall be competent to that authority to stay execution of the Collector's decree and to cause the attachment of the land to be suspended or withdrawn, on due security being tendered by the appellant for the payment from the date of the Collector's decision of the revenue which may ultimately be assessed on the land.

Collector empowered to carry his decision into effect, whether an appeal be filed or not, reporting his proceedings to the Board or the Commissioner. Commissioner may stay execution of Collector's decree in cases appealed, and suspend attachment of land, on security for payment being tendered.

Fourth. If the Collector shall decide against the assessment, he shall report his proceedings together with the whole record of the case to the Board of Revenue, who are to take the case into their consideration and, if they shall be of opinion that the grounds assigned by the Collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the Board within one year from the date on which they may receive the Collector's proceedings to transfer the case for revision and final orders to the Special Commissioner, who shall issue a notice requiring the attendance of the party in whose favour the Collector may have decided, and, should such party neglect after having been duly summoned to attend and defend the appeal before the Commissioner, it shall be competent to the Commissioner to hear and decide the case *ex parte.*

If Collector decide against assessment, he will report his proceedings to the Board, who will, if dissatisfied with the grounds of the Collector's decision, transfer the case for revision and final order to the special Commissioner within one year. Commissioner to issue notice to the party requiring his attendance; if party neglect to attend, Commissioner empowered to hear and decide *ex parte.*

Decision of Special Commissioner or Commissioners under this Regulation shall be final. Excepting cases which, if decided by the Sádr Díwání Adálat, would be appealable to His Majesty the King in Council. In such cases an appeal will lie from the decision of the Specia Commissioner or Commissioners under the rules applicable to appeals from decisions of the Sádr Díwání Adálat. The decision of the Special Commissioner to be executed and enforced notwithstanding the institution of the appeal. Commissioners to be competent to review any judgment passed by them on sufficient cause shown for a new trial.

Fifth. In all cases decided by a Special Commissioner or Commissioners, whether on appeal by individuals from decision of the Collector or on reference from the Board of Revenue under the above rule, or in cases transferred from any of the ordinary Courts of Judicature, the decision passed by the Special Commissioner or Commissioners, who by warrant from the Governor-General in Council and the provisions of this Regulation may be competent to pass the same, shall be final, save and except in cases which if decided by the Court of Sadr Díwání Adálat would be appealable to His Majesty the King in Council. In such cases a similar appeal will lie from the decision of the Special Commissioner or Commissioners under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court: provided however that such decisions shall be immediately executed and enforced notwithstanding the institution of the appeal: provided also that it shall be competent to any Commissioner to review any judgment passed by him on sufficient cause being shown why a new trial should be granted, the rules in the existing Regulations regarding a review of judgment being held applicable to such cases.

[In the case of *Maharaja Maheshur Singh* v. *The Government of India* (VII Moo. Ind. Ap. 283) the decision in appeal of one Special Commissioner was given on the 6th December 1841, and was confirmed by another Special Commissioner on the 8th March 1842. On the 21st September 1857, *i.e. five and a half years after*, a petition for a review on behalf of Government was presented to a subsequent Special Commissioner, who granted the petition and reversed the decision of 1842, a second Special Commissioner confirming this reversal. On appeal to the Privy Council, it was held that "the rules in the existing Regulations" were the rules to be found in s. 4, Reg. XXVI of 1814; and on the true construction of these rules that no just and sufficient cause had been alleged or shown for granting a review of the decision of 1842 four years after and before another Judge. Some of their Lordships' remarks turned upon the particular words of the section itself, but their observations on *reviews* in general and the principles which should guide in granting or refusing applications for review are as applicable to the law of procedure at present in force as they were to s. 4, Reg. XXVI of 1814. They observed that a review is perfectly distinct from an appeal: the primary intention of granting a review is a re-consideration of the same subject by the same Judge as contradistinguished to an appeal, which is a hearing before another tribunal. They would not say that there might not be cases in which a review might take place before another and a different Judge, because death or some other unexpected and unavoidable cause might prevent the Judge who made the decision from reviewing it; but they did say that such exceptions were allowable only *ex necessitate*, and that in all practicable cases the same Judge ought to review. With reference to the special jurisdiction exercised by the Commissioners, whose decision was appealed against, they pointed out the great care which the Government of India had provided against a review being improperly granted. They further expressed a belief that their reversal of the decision, passed after a review had been improperly granted, would contribute to insure a just confidence that those special jurisdictions, which in some degree displaced the ordinary tribunals of the country, would carefully observe those rules which had been prescribed to regulate their proceedings—rules which had been wisely introduced to guard against the possible abuse of authority, and a departure from which would be likely to produce distrust and to defeat the principal objects of their institution.

In the same case the lands claimed to be revenue-free were owned by a mahant as the head and for the benefit of a community of religious devotees. The mahant had of course an interest to enlarge his boundaries as against the contiguous *zemindár*, who apprehending in the early stages of the suit that his interests might be affected by any decision of the Collector declaring the *lakhiráj* lands to be more extensive than they really were, had intervened by petition. It was remarked that in every view of the case he had an interest which justified him in so doing, for even assuming it to be true that the Collector's report as to the extent of the land subject to revenue was not binding on the zemindár and that he had a remedy against such a proceeding in another Court, still he had clearly an interest in averting an erroneous report being made to his prejudice, the creation of *primâ facie* evidence prejudicial to himself, and the necessity of resorting to the Civil Courts to remedy an evil already inflicted. As to the principles upon which a review should be granted, see also *Raní Sarat Sundarí Debya, &c.* v. *Rajendar Kishore Rai Chaudhrí and others*, IX W. R. Civ. Rul. 125.]

Sixth. In all cases in which the judgment of a single Special Commissioner shall coincide with the decision passed by a Collector or by a Board of Revenue or by a Court of Justice in cases which have been decided by an inferior Court, and after having been appealed to a higher have been transferred under the provisions of this Regulation to a Special Commissioner, the decision of such single Commissioner shall be final, subject to the provisions of the foregoing clause. But if on hearing any case of the nature above specified a single Commissioner shall be of opinion that the last award made in such case ought to be reversed or altered, he shall record his opinion to that effect and the case shall then be laid before another Special Commissioner appointed under this Regulation, and, should he disagree in opinion as to the decision of the case, to a third Commissioner, so that the final award may be made by the concurrent voices of at least two Special Commissioners: provided that it shall be competent to the Governor-General in Council on the occasion of appointing a Special Commissioner to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other Special Commissioner a reference shall be made by him in cases of difference of opinion.

The judgment of a single Commissioner concurring with the decision of the Board or other inferior tribunal to be final, subject to the provisions of the foregoing clause.

Course to be followed in the event of disagreement of opinion.

V. It is hereby declared and enacted that the provisions of this Regulation are not intended and shall not be construed to extend to cases of the nature specified in the several clauses of section 30, Regulation II, 1819, save and except when such cases may involve the rights of Government to subject to assessment all or any portion of the lands in respect to which the action may be brought. In cases of the above description in which the Government may be a party, whether instituted in the first instance before the Collector or referred to him by the Court, the Collector shall proceed to investigate and decide in the mode prescribed in the preceding section of this Regulation, the several clauses of which shall be held to apply to such suits; and all other cases falling within

The provisions of this Regulation not to extend to cases of the nature specified in the several clauses of section 30, Regulation II, 1819, except when such cases involve the rights of Government to subject lands to assessment.

In cases of the

above description, in which Government may be a party, the Collector to investigate and decide in the mode prescribed in the preceding section.

All other cases falling within the provisions of section 30, Regulation II, 1819, in which Government is not itself a party, shall be heard and determined under the rules therein enacted, as modified by section 5, Regulation IX, 1825.

the provisions of section 30, Regulation II, 1819, in which the Government is not itself a party, shall be heard and determined under the rules therein enacted and the subsequent modifications of them declared in section 5, Regulation IX, 1825.

Forms and nature of the proceedings of the Commissioners how to be regulated.

VI. *First.* The Special Commissioners appointed under this Regulation shall be guided by such rules as may be prescribed by the Governor-General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper (stamped or unstamped) to be used, the fees to be levied, and generally the rules of practice to be followed.

Commissioners may prescribe rules for she guidance of the Collectors, and may refer cases back to those officers for further trial.

Second. The Special Commissioners shall likewise be competent to issue such instructions to the Collectors of the districts, over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II, 1819, and Regulation IX, 1825, as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.

Processes of the Commissioner how to be enforced.

Third. All processes issued by a Commissioner shall be enforced in the same manner and under the same penalties for disobedience or resistance as processes of the ordinary Courts of Justice, and all the powers possessed by those Courts in regard to contempts, the summoning and examination of witnesses and the administration of oaths shall be vested in the Commissioners, whose decision shall in such matters be final.

Decisions of the Commissioners how to be executed.

Fourth. The Special Commissioners shall be competent to require the *Zillah* Courts to carry into execution, when necessary, the decisions which they may pass, and the *Zillah* Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by the Provincial Courts or the Court of Sadr Díwání Adálát.

Fifth. The several rules and provisions contained in the existing Regulations relative to native officers belonging to the *Zillah* Courts will be applicable to the native officers employed by the Special Commissioners, except in cases in which the Commissioners may with the sanction of Government otherwise determine.

Native officers attached to the Commissioners subject to what rules.

VII. *First.* It shall be the duty of the Courts and of the Revenue Officers to afford the Commissioners every aid and information that they may require, to serve all processes issued and required to be served by the Commissioners in like manner as if they were issued by themselves, to prepare and transmit to the Commissioners such lists of cases decided or pending before them as they may see occasion to call for, and to furnish all papers and documents which the Commissioners may desire to examine.

Courts and Collectors to give their aid to the Commissioners.

Second. It shall likewise be competent to the Commissioners to require the *Zillah* Courts or the Collectors to examine witnesses, either on written interrogatories or otherwise, in regard to any points, the investigation of which it may appear necessary to conduct in that manner, and generally to inquire and report on particular points upon which further information is desirable, in the same manner as the said Courts are required to report in pursuance of precepts issued to them by the Provincial Courts and Court of Sádr Díwání Adalát.

Commissioners may require *Zillah* Courts and Collectors to examine witnesses and furnish information.

VIII. The Special Commissioners shall furnish to Government periodically such statements and reports as the Governor-General in Council may prescribe.

Commissioners to furnish periodical statements and reports.

X. *First.* The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation II, 1819.

Sections 22, 23 and 24, Regulation II, 1819 modified and extended.

Second. All decisions which have been or may be passed by the Boards of Revenue under the rules in section 21, Regulation II, 1819 declaring the liability to assessment of lands, whether the same be situated in districts to which the jurisdiction of a Special Commissioner has been extended or in any other district, shall be carried into immediate execution by the Collectors or other local Revenue Officers of such district, notwithstanding that the parties, against whom such decisions may have been or may be passed, shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice or to the Commissioner appointed under this Regulation; and such parties shall not be permitted to retain possession of the lands, unless they enter into an engagement to pay the assessment which may be fixed upon them, such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof: and if any person, against whom the Board may have

Decisions passed by the Boards of Revenue under section 21, Regulation II, 1819 to be carried into execution, notwithstanding the parties may have sued to contest the decision. Persons declining to pay assessment to be dispossessed, and the Collector to make arrangements for the collection of

the revenue. But if the land be finally exempted, the collections made to be refunded with interest.

decided, shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the Collector under the orders of the Board may see fit to adopt; but, in the event of a final decision being passed exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded with interest thereon at the rate of 6 per cent. per annum.

Suits instituted in Courts to contest the Board's decision in cases in which the jurisdiction of the Courts is not barred by this Regulation, how to be heard and determined.

Third. All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation II, 1819 and section 5, Regulation IX, 1825 to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board and the reply to those objections on the part of the Revenue Authorities. The said Courts shall likewise on the admission of an appeal invariably call for the original record of the Board's proceedings in each case and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence oral or documentary unless it shall appear that such evidence was tendered by the party adducing it to the Collector or the Board and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Proviso that appeals are still to be admitted from inferior to superior Courts, as heretofore.

Fourth. Provided however and it is hereby enacted that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue Authorities to the Court of Sadr Díwání Adálat from decisions passed in the first instance in the *Zillah* Courts in cases of the nature described and specially provided for in section 6, Regulation XIV, 1825, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation II, 1819.

Appeals from decisions of Boards of Revenue to be kept on a distinct file or register.

Fifth. Appeals filed in the established Courts of Civil Judicature to contest decisions of the Boards of Revenue shall be kept on a file or register distinct from that on which other suits before those Courts are entered.

Persons succeeding to the possession of lands held free of

XI. *Second.* Persons succeeding to the possession of any lands held free of assessment or held on a *mukarrarí jamá*, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are

hereby required immediately to notify the same to the Collector or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue Officers: nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue Authorities, until such party shall have paid to Government a fine equal to one year's rent, and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him with interest thereon at the rate of 12 per cent. per annum; provided also that the said rent and collections shall be estimated according to the assessment demandable from the *raiyats* at the time of attachment.

assessment or on *mukarrarí jamá* to report the same to the Collector. Omission to report within six months to subject the land to attachment. Land so attached not to be restored until the payment of a fine equal to one year's *jamá*. And if the land be awarded not to be the right of the individual, collections to be refunded with interest.

Third. Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof and to hold the same free of assessment or on a *mukarrarí jamá* shall be investigated and determined by the Collector under the provisions of Regulation II, 1819 as modified by the present Regulation and by those which have been intermediately enacted.

Claims to recover possession of land, attached as above, how to be investigated and determined.

XII. All tenures, which may not have been duly registered in the manner prescribed by the Regulations or of which the specification contained in the Register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature on the demise of the persons who were in possession at the dates respectively of Regulations XIX and XXXVII, 1793, Regulations XLI and XLII, 1795, Regulations XXXI and XXXVI, 1803, Regulations VIII and XII, 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government; and Collectors and other officers exercising the powers of Collector shall accordingly proceed to assess and, if necessary, attach all lands liable to resumption as above in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding: provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming and their authenticity recognized, be construed and defined with reference to the whole of the matter

Tenures not registered under the Regulations, or of which the specification in the register shall not purport them to be held under hereditary title, or as permanent endowment, shall be held liable to resumption, unless declared hereditary by a final decree of a competent authority. Such lands to be attached and assessed in the same manner as lapsed farms. Nature and extent of the interests vested in the holders of *lakhiráj* lands how to be determined.

contained in such deeds and not merely by the designation of the tenure. *Jagírs* consequently shall not be held to be life tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest, nor shall any tenures howsoever designated be considered to be hereditary and perpetual, if the grants under which they are held shall not convey in express terms an hereditary or perpetual interest.

The Sundarbans declared the property of the State, and Government competent to make grants and to take measures for its clearance. Parties obtaining grants to take possession, and public officers to aid and assist them. Persons deeming themselves aggrieved by such grants, how to proceed. Parties claiming right to derive revenue from persons engaged in gathering or collecting *jangal* produce in the Sundarbans, entitled to compensation from Government on proving right.

XIII. *First.* The uninhabited tract known by the name of the Sundarbans has ever been and is hereby declared still to be the property of the State, the same not having been alienated or assigned to *zemindárs* or included in any way in the arrangements of the perpetual settlement. It shall therefore be competent to the Governor-General in Council to make as heretofore grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient. All parties, to whom such grants, leases or assignments shall have been made or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban *jangal* so granted or assigned, without question or opposition, and all public officers shall aid and assist the same: provided also that, if any *zemindár, tálukdár* or other *sadr malguzár*, or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned, shall sue in any Court of *Adálat* or before a Special Commissioner under this Regulation to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be proved to be or to have been or be not denied to be or to have been, when so granted, leased, or assigned, within the limit of the unoccupied *jangal* so named and described, the suit shall be dismissed with costs: provided however that, if any *zemindár, tálukdár* or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax or cutting wood or obtaining other *jangal* products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets on which the assessed revenue of his *zemindári, tálukdári*, or other tenure was adjusted at the time of forming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of *sayar* revenue or other similar arrangement, such *zemindár, tálukdár* or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans, the same being duly

established after an investigation conducted under the rules of Regulation II, 1819 as modified by this Regulation.

Second. The boundary of the Sundarban *jangal* shall be laid down by accurate survey as determined on the spot by the Commissioner of the Sundarbans, and any *zemindár*, *tálukdár* or party interested shall be entitled on application made through the Commissioner and on payment of the charge of preparing the same to receive a copy of the survey map, or of any part of the same, with the boundary marked there as so determined, together with a copy of the Commissioner's proceedings on the subject. Any party deeming his right injured by the demarcation so laid down shall be at liberty, at any time within three months from the date of the Commissioner's proceeding fixing the same (which proceeding shall always be held and published on the spot), to contest the same by petition to a Special Commissioner under this Regulation having local jurisdiction for the time being, or (if no such jurisdiction exist) to the ordinary Courts of Justice by which the case is cognizable, praying further investigation: provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a specific quantity of land, or land with defined limits was in the occupation of the petitioner cleared and under cultivation, which by the line of demarcation adopted is placed within the Sundarban tract belonging to Government. Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II, 1819 as modified by this Regulation.

Boundaries of the Sundarbans how to be determined.

Parties injured by such demarcation how to proceed, and Commissioners and Courts how to determine such cases.

[The Rájá of Jessore, having made a settlement for 99 years for certain lands which Government alleged to be within the Sundarbans, afterwards sued to set the deeds of settlement aside on the ground that the lands were part of his settled zemindárí of Pargána Shahosh. The Privy Council on appeal held that the suit was not maintainable, remarking with reference to the above section as follows—" The first thing that strikes the mind on reading these enactments is, that as the object of passing them was to make provision for the immediate settlement of the limits of the Sundarbans, so that object could only be attained by fixing peremptorily a period at which the demarcation of those limits should be final. The object would be defeated if any person could come in after that period, pleading infancy or other ground for re-opening the question of boundary, since the geographical boundary line was necessarily to be one and the same for all the world. Another inference to be drawn from these provisions is that the line of demarcation so drawn was to be final and conclusive at least in respect of all waste land and uncleared jangal. The petitioner could not be heard to object to the line, unless he declared and offered proof that at the time of the survey he was in the occupation of a definite quantity of land cleared and under cultivation within that line; nor was this unreasonable. The presumption, which might arise in other parts of India that jangal was within the limits of a settled zemindárí, would not arise in the case of a zemindárí bounded by the Sundarbans, for that tract of land was

advisedly excluded from the Permanent Settlement: and therefore the presumption would be that the settlement in that locality was confined to the land then in cultivation. A person in occupation of cultivated land might within three months do two distinct things: he might pray for a further investigation, which might result in a new demarcation of the boundary, and he might put forward his claim to hold the particular lands free from public assessment. But as the line defines the tract called the Sundarbans, and the Sundarbans are declared to be *extra* the perpetual settlement, it is difficult to see how, after the line had on the expiration of the three months become final, any party could be heard to say that even cultivated lands within it were part of his settled zemindárí. Upon the whole therefore their Lordships are disposed to agree with the High Court in the conclusion that the Regulation was a bar to the appellant's suit—*Rájá Bárádakant Rai* v. *The Commissioner of the Sundarbans*, XII Moo. Ind. Ap. 225, and II B. L. R. P. C. 33.

See also *Unapúrna and others* v. *The Commissioner of the Sundarbans and others* (II Sev. 806) in which the contention was raised that the Commissioner of the Sundarbans not being vested with the powers of a Collector could not resume lands. The High Court refused to entertain this point as it had not been raised in the Lower Courts, and dismissed the suit as not having been brought within a year of the order of the Board of Revenue confirming the resumption, and therefore barred under s. 24, Reg. II of 1819.]

RULES OF PRACTICE *for regulating the proceedings of the Special Commissioners appointed under Regulation III*, 1828.—PASSED *by the Right Honorable the Governor-General in Council on the* 21*st August* 1828.

SARRISHTAH. Cases transferred to Commissioners, and received in appeal by them, to be numbered and filed in three separate registers, according to a given form.

I. The several cases which may be received for trial by each Commissioner, whether transferred by the Courts of Justice or Boards of Revenue or received on appeal by parties, shall be regularly numbered and entered on separate file-books according to the following classification, viz.—

One file for cases of *lakhiráj* lands or tenures claimed to be held free of all rent.

One file for cases of claims to hold land at *mukarrarí* or fixed *jamá*, or to resist the assessment of land on the plea that it is included in settled estates, such as *halabad, noabad, taufir* and *pattitabadi* lands.

One file for new *churs* and *jangal* lands claimed as the absolute property and at the disposal of Government.

Each file to be kept according to the form A annexed.

Each Commissioner to entertain a *muhafiz daftar*, to be held responsible for safe custody of records.

II. Each Commissioner is to entertain a *muhafiz daftar*, who is to have special charge of the record of cases to be heard and determined, for the safe custody of which that officer shall be held responsible; and all officers, who may be employed by the Commissioners in the execution of the duty confided to them, shall be considered as exclusively under their control.

ADMISSION OF APPEALS. In suits trans-

III. Whenever the record of any cause may be transferred by a Court of Justice to a Special Commissioner under the rule contained in the fourth clause of section 2

Regulation III, 1828, the Commissioner shall in a Persian *rubakarí* acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit, who may have appeared before it. The Commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the *Zillah* or City Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit, as the case may be. All notices of the above description, which it may be necessary to issue to any officer on the part of Government, shall be served as hereinafter directed.

ferred from Courts of Justice, notice to parties how to be issued.

IV. In all cases which may be transferred to a Special Commissioner by a Board of Revenue under the provisions of the sixth clause of section 2, Regulation III, 1828, the Board shall be requested to notify the transfer to the parties or their agents, who may have appeared before them, and notices similar to those prescribed in the preceding section shall be issued for the attendance of the parties, to be served through the Judge of the *Zillah* or City Court, within the jurisdiction of which the lands may be situated.

In cases transferred from the Revenue Boards, similar notices to issue to the parties.

V. Whenever any person, who may be dissatisfied with a decision passed by a Collector, shall under the option given in the second clause of section 4, Regulation III, 1828 present his petition of appeal to the Collector by whom the decision has been passed, it shall be the duty of that officer, after having had a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit accompanied by an accurate list of all the papers contained in it to the office of the Special Commissioner of the division. In making a transcript of the record previous to transmission the Collector is to be specially careful that all *sánads* and other documents are accurately and faithfully copied for record in his office, and the original record is in all practicable cases to be transmitted within fifteen days from the date on which the petition of appeal may be filed.

Collectors how to proceed when petitions of appeal are presented to them.

VI. On the same day on which the original record of any case appealed may be transmitted from the Collector's office to that of the Special Commissioner of the division, the Collector shall issue a notice to the appellant, apprizing him thereof and requiring him to attend the Commissioner either in person or by an authorized agent for the purpose of prosecuting his appeal within six weeks from the date of the receipt of such notice. If any other person not being an officer of Government shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall on their being returned to the Collector be certified by him to the Special Commissioner.

Notice of transmission of record to be given to the appellant and other parties concerned.

VII. It shall likewise be the duty of the Collector on the transmission of the record of any case appealed as above specified to give notice of the admission of such appeal by *parwána* addressed to the officer who may be appointed (as hereinafter provided) agent on the part of Government at the *kachahrí* of the Special Commissioner.

Collector to apprize the agent of Government, appointed at the Commissioner's *kachahrí*, of the admission of the appeal.

Petitions of appeal preferred to Commissioner to be accompanied by authenticated copy of decision appealed from. Commissioner how to proceed when appeal is admitted from decisions of Collectors. And how to proceed if the appeal be from a decision of a Revenue Board.

VIII. Every petition of appeal from the decision of a Collector preferred direct to a Special Commissioner under the rule quoted in section 5, or from the decision of a Board of Revenue under the provisions of the fifth clause of section 2, Regulation III, 1828 shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and, on the admission of an appeal so preferred, the Special Commissioner shall, when the decision appealed from may have been passed by a Collector, issue a precept to that officer requiring him within a specified time to transmit the original record of the cause to the office of the Special Commissioner, a copy of the record being retained by the Collector as provided in the fifth section of these rules. In cases when the appeal admitted as above shall be from a decision passed by a Board of Revenue, the Special Commissioner shall by a Persian *rubakári* require such Board to transmit to his office the original record of the case (a copy being similarly retained) within a specified period.

Notice of the admission of an appeal to be given to other parties not appellants or officers of Government. Judges of *Zillah* and City Courts to certify the due service of such notice.

IX. When an appeal may be admitted by a Special Commissioner under the rules contained in the two preceding sections, if there shall appear on a perusal of the decree appealed from to be any individuals interested in the issue of the appeal besides the appellants and the officers of Government, it shall be the duty of the Special Commissioner to direct a notice of the nature described in section 6 of these rules to be served on such persons through the *Zillah* or City Courts, within the jurisdiction of which they may reside, and the due service of such notice shall be certified by the Judge of such Court in reply to the precept issued to him by the Commissioner.

Notice to respondents and other parties in cases referred to Special Commissioners under clause 4, section 4, Regulation III, 1828, how to be served.

X. In cases which may be referred to the Special Commissioners by the Revenue Boards under the provisions of the fourth clause of section 4, Regulation III, 1828, the notice therein directed to be issued for the attendance of the respondents, as well as any notice which it may appear proper to the Commissioners to issue for the attendance of any other party, not being an officer of Government, shall issue through and be served by the Judge of the *Zillah* or City Court of the district in which the respondent or such party may respectively reside.

In certain cases Collectors are to stay execution of decrees in cases appealed.

XI. With reference to the provisions of clause third, section 4 and clause second, section 6, Regulation III, 1828 it is provided that, whenever a petition of appeal shall be preferred to a Collector against a decision passed by him declaring land liable to assessment, or when a Collector may have reason to believe that it is the intention of the party against whom such decision may have been passed to appeal therefrom within the period limited by the above Regulation, he shall not proceed to carry the decree into execution until after the expiration of that period, unless he shall be sooner apprized that an application on the part of the appellant to stay execution of the decree has been rejected by the Special Commissioner, in which case or otherwise after the expiration of the period limited for appealing he may proceed to execute the decree, unless prohibited from so doing by order of the Special Commissioner.

XII. Provided also that in cases in which the petition of appeal may be filed before a Special Commissioner, if on a perusal of the decree he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the Collector along with the requisition for the original record of the cause directed to be issued in the eighth section of these rules.

When petition of appeal is filed before the Special Commissioner, he may order execution to be stayed.

RULES RELATIVE TO PLEADINGS.

XIII. Every petition of appeal from the decision of a Board of Revenue or of a Collector, which may be preferred to a Special Commissioner under the provisions of Regulation III, 1828, shall be written on stamped paper of the value of one rupee.

Petition of appeal to be written on stamped paper value one rupee.

XIV. It shall be at the option of the appellant to enter the grounds of his appeal in detail in the petition for the admission of his appeal or to reserve his arguments to be brought forward in a separate pleading; but in the event of his adopting the latter course such pleading shall be written on stamped paper value one rupee.

Petition may contain grounds of appeal, or they may be advanced in a separate pleading, but if the latter, such pleading to be written on stamped paper value one rupee.

XV. In appeals, wherein an officer of Government is the party respondent, the reply to be filed to the grounds of appeal is to be written on stamped paper value one rupee, and a reply either in express refutation of the pleas of the appellant or generally resting the defence on the grounds recited in the decree appealed from shall be required in every case.

Reply of Government to be written on the same paper, and always to be put in.

XVI. In cases referred by the Revenue Boards for revision to the Special Commissioners under the rule in clause fourth, section 4, Regulation III, 1828 the Board referring the case shall be required in reply to the reference to direct the Superintendent and Remembrancer of Legal Affairs or some other public officer to file a pleading containing the grounds on which the Board are dissatisfied with the Collector's decree, and such pleading shall be written on stamped paper value one rupee.

In cases referred for revision by Revenue Board under clause fourth, section 4, Regulation III, 1828, Boards to direct a public officer to file a pleading containing grounds of dissatisfaction: such pleading to be written on stamped paper value one rupee.

XVII. The reply of the party opposed to Government in cases of the above description shall likewise be written on stamped paper value one rupee.

Reply of respondent to be written on similar paper.

XVIII. No miscellaneous petition or pleading of any kind beyond the *wajîhât* of the appellant and the reply of the respondent shall be admitted, unless on a verbal representation by the parties or their agents before the Commissioner such additional pleading or miscellaneous petition shall appear necessary; but, when admitted to be so by the Commissioner and allowed to be filed, it shall be written on stamped paper value one rupee.

No further pleadings to be admitted, except under special circumstances.

Above rule not to apply to petitions of suspending execution of decrees, pending appeal.

XIX. The foregoing rule is not however to be construed to prevent the admission by the Special Commissioners of petitions presented solely for the purpose of staying execution of decrees, which petitions may be received and acted on at any time pending the decision of an appeal.

Petitions for review, on what paper to be written.

XX. With reference to the provisions for a review of judgment contained in the fifth clause of section 4, Regulation III, 1828 it is provided that all petitions for review of judgment, which may be presented to the Special Commissioners, shall if presented within two calendar months from the date of the decision of which review is prayed be written on stamped paper value one rupee: but, if presented after the expiration of the above period, such petition shall be written on the stamped paper prescribed in section 13, Regulation I, 1814, calculated at the computed annual produce of the land in dispute.

RULES REGARDING DEFAULT

An appellant defaulting for six weeks to be called on by a notice to appear. What to be deemed due service of such notice.

XXI. If any appellant shall not, within the period of six weeks from the date of instituting his appeal if preferred direct to a Commissioner, or if filed at the Collector's Office from the date on which he may receive notice that the record of the case has been transmitted to the Commissioner, either attend in person or appoint an agent as hereinafter provided and prosecute his appeal, a further notice shall be issued by the Commissioner through the *Zillah* or City Court, requiring such appellant to attend and prosecute his appeal within fifteen days from the date of the receipt of such notice. If the *peon* charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and, if the appellant shall afterwards omit or refuse to attend the Commissioner within the prescribed period, his appeal shall be dismissed with costs.

If appellant defaults after appointing an agent, a requisition to such agent to be held sufficient notice.

XXII. If an appellant after having appointed an agent to plead his cause shall neglect to prosecute the same for a period of six weeks, a requisition by the Commissioner to such agent to proceed in the case within fifteen days shall be held equivalent to a notice to the appellant; and in the event of his not so proceeding his appeal shall be dismissed.

All notices of Government officers to be delivered to the Government agent.

XXIII. All notices required to be served on any officer of Government concerned in a suit before the Commissioners shall be delivered to the agent appointed on behalf of Government at each Commissioner's *kachahrí*, who shall give a receipt for the same and transmit a copy thereof to the officer concerned, and return the original to be filed on the record.

RULES RELATING TO EVIDENCE AND FEES.

If further evidence oral or documentary is received, no stamp fees shall be levied from the parties for witnesses or documents.

XXIV. Should the Special Commissioners, acting on the discretion vested in them in common with the ordinary Courts of Justice by the third clause of section 10, Regulation III, 1828 deem it necessary or proper to receive further evidence oral or documentary in any case depending before them, no stamp fees shall be levied from the parties for summoning witnesses or filing exhibits.

XXV. If in any case the Special Commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the Judge of the *Zillah* or City within which they may reside on specific points indicated by the Commissioners and recorded on their proceedings. If a party at whose instance a witness may be summoned will undertake himself to produce him or to serve the subpœna on him, he shall be allowed to do so, otherwise the process shall be served by a *peon* of the *Zillah* or City Court under the ordinary rules in force. The same course shall be followed whenever it may be considered necessary to examine a witness before any of the Special Commissioners.

Further evidence of witnesses required to be taken by *Zillah* or City Judge on specific points.
Party may produce his witness himself or undertake the service of subpœna on him.
Same course when a witness is required to be examined before a Commissioner.

RULES RELATIVE TO MUKHTARS OR AGENTS, AND THEIR REMUNERATION.

XXVI. Every party, whose case may be depending under Regulation III, 1828 before a Special Commissioner, shall be at liberty, if he chooses, to attend and plead his own cause in person or to appoint a *mukhtar* or agent specially for that purpose.

Parties may plead themselves or appoint agents.

XXVII. Every person, who may appoint an agent as above authorized, shall execute a regular power of attorney in such agent's name and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public officer and it shall be filed on the record of the case.

Regular power of attorney appointing an agent to be executed and filed on the record.

XXVIII. The parties in cases before the Commissioners are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the Commissioners to be of good character and respectability.

The parties not restricted in choice of agents to any particular number of individuals, but they must be of good character.

XXIX. The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the *mukhtars* or agents whom they may appoint, as may be agreed on among themselves; provided however that, if on the decision of the case the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the Commissioner or Commissioners by whom the case is decided; provided also that if any *mukhtar* shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

Parties at liberty to settle with their *mukhtars* the amount of remuneration to be paid for their services.
If they disagree, the Commissioners finally deciding may fix the amount.
But if *mukhtar* will not await final decision, he shall refund what he may have received.

XXX. Every agent or *mukhtar*, who may be appointed to conduct a cause before the Special Commissioners, shall be subject to fines and other penalties for neglect, contempt of Court or other misbehaviour to the same extent and in the same manner as the regular pleaders of the Courts of Justice are subject by the Regulations.

Mukhtars to be subject to fine, &c. for neglect and misconduct, as pleaders of the Courts of Justice are.

An agent to be appointed on behalf of Government at each *kachahrí* where the Commissioners sit. Rules relative to Government pleaders to apply to him, as well as the rules for other agents employed by the parties before the Commissioners.

XXXI. An agent shall be appointed (if approved by Government) by the Superintendent and Remembrancer of Legal Affairs to attend on behalf of Government at each *kachahrí* where suits may be heard and determined by the Special Commissioners, and such agent shall be remunerated by a fixed salary or in such other manner as the Governor-General may be pleased to determine. The agent so appointed shall moreover be liable to all the rules applicable to Government pleaders, as well as to the rules prescribed for the agents who may be employed by individuals to plead before the Commissioners.

RULES RELATIVE TO DECREES AND COSTS OF SUIT. Where Commissioners interfere as to agents' remuneration, the final sum awarded to be entered in the decree as costs. Provision also to be made for the mode in which all costs are to be borne by parties.

XXXII. In giving judgment in each case, if the Special Commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their causes, the amount of remuneration finally authorized shall be inserted as costs at the foot of the decree. Distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is or is not to bear the whole or any portion of the expenses which may have been incurred by the party opposed to him, including of course costs of the nature indicated in the seventh clause of section 2, Regulation III, 1828 in cases to which that clause may be applicable.

Original decree and three counterparts to be prepared on English paper, and how to be disposed of.

XXXIII. The original decrees of the Special Commissioners intended to be kept with the records of the cases, as well as three counterparts to be disposed of as underneath directed are to be transcribed on plain paper but of European manufacture exclusively. One counterpart shall, as soon as practicable, be delivered to the party opposed to Government; one counterpart shall be transmitted to the Collector of the district in which the land is situated; and the remaining counterpart shall be forwarded to the Board of Revenue or other authority exercising the powers of a Board of Revenue, under the control of which such Collector may be placed. All other copies of the decrees of the Commissioners, which parties may require for private use or as documents to exhibit in evidence, shall be made at the expense of the parties on plain or stamped paper under the general Regulations in force, but such copies shall only be permitted to be prepared by persons duly authorized by the Commissioners.

All other copies to be made as directed by the Regulations in force.

Commissioner in transmitting counterpart of decree to Collector to order him to execute it and report progress thereon.

XXXIV. In transmitting a counterpart of the decree as above directed to the Collector, the Commissioner by whom it may have been passed shall accompany it by instructions to that officer to carry it into immediate execution and to report within a given period the measures which he may have adopted for that purpose.

XXXV. In all matters not specially provided for in the foregoing rules or in Regulation III, 1828 the course of proceeding shall be conformable to the rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals.

GENERAL RULES. Unless otherwise provided, the Commissioners to be guided by Regulations in force for the trial of appeals.

XXXVI. With a view to ensure uniformity in the proceedings and practice of the several Special Commissioners appointed to act under Regulation III, 1828 it is hereby provided that, whenever it may be deemed necessary by any Special Commissioner to propose rules of practice either original or in modification of the present rules, he shall transmit a draft of such rules to each of the other Commissioners acting under the Regulation with a request that they will record their sentiments on the expediency or otherwise of the proposed rules, so that the draft, when transmitted for the consideration of Government by the Commissioner with whom it may originate, may be accompanied by the observations of all the Commissioners.

Any Commissioner proposing new rules to submit his draft before it is sent to Government to the other Commissioners for their opinions, which are to accompany the reference.

FORM A.

Register of Lakhiráj Cases before the Special Commissioner appointed under Regulation III, 1828, *for the Division of*———

Number of Appeal.	Names of Parties.	District in which the land is situated.	Substance of the decree appealed from.	Date of the decree appealed from.	Date of Appeal.	Date and substance of final decision.

REGULATION IV OF 1828.

A REGULATION *to declare and extend the powers to be exercised by Collectors when making or revising Settlements under the provisions of Regulation VII,* 1822.—PASSED *by the Governor-General in Council on the 7th August* 1828.

I. Whereas it appears to be expedient that the powers specified in section 16, Regulation VII, 1822 should be generally vested in Collectors and other officers performing the duties of Collectors when employed in making or revising settlements according to the provisions of that law, and that the jurisdiction of

Preamble.

the said Officers in such cases should not be barred by summary decisions passed by Magistrates or Joint Magistrates under the rules of Regulation XV, 1824—the following rules have been enacted, to be in force from the date of their promulgation throughout the provinces subject to the Presidency of Fort William.

Period defined during which Collectors are to be considered to be engaged in making and revising settlements.

II. *Fourth.* To prevent doubts as to the period for which Collectors and other Officers aforesaid are to possess the powers vested in them by this Regulation and by Regulation VII, 1822 in regard to any *maháls* of which the settlement may have been or may be about to be made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they may have issued or may issue orders for adjusting the boundaries, for measuring any of the lands, or for making a census of the inhabitants of any village or portion of a village belonging to such *mahál,* of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement as made and revised by them has been finally confirmed by Government. During the aforesaid period Magistrates and Joint Magistrates shall be guided in respect to such *maháls* by the provisions of clause second, section 34, Regulation VII, 1822, by which they were required to refer to the Revenue Authorities disputes regarding lands, premises, crops, watercourses and the like; and all Police officers are required to give immediate and efficient support to Collectors and other Revenue Officers in the execution of their duties.

The powers vested in Magistrates and Joint Magistrates by Regulation XV, 1824, to be suspended for such period, and those officers to be guided by the rules of clause second, section 34, Regulation VII, 1822.

Police officers to give immediate and efficient aid to Collectors.

REGULATION VII OF 1828.

A REGULATION *for amending the provisions of Regulation XV,* 1795 *and for defining the authority of the Rájá of Benares in the Maháls therein referred to.*—PASSED *by the Governor-General in Council on the* 12*th September* 1828.

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By an arrangement concluded in the year 1794 with Rájá Mehipnarain Singh, the administration of justice in the *jagirs* of Bhurdoí, Kera Mungrore and that part of *pargána* Kuswar or Gungapore, which is the Rájá's family *zemindári,* so far as relates to matters connected with the revenue, was separately provided for, and in conformity thereto the Courts of Justice were restricted by Regulation XV, 1795 from taking cognizance of any such causes. The management of these *maháls* was committed to the Rájá with a view to the maintenance of his honour and dignity, but it was to be conducted in concert with and under the advice of the Collector, and with an appeal direct to the

Governor-General in Council—an arrangement which was obviously intended to secure to the population the observance of the same principles of administration and the same recognition of rights, by which the Government had engaged to adhere in its dealings with the rest of its subjects throughout the province. Inconveniences however having been experienced from the absence of specific rules for the guidance of the Rájá in the exercise of the privileges thus conferred upon him, and the system having in other respects failed to accomplish the objects intended by it—the following provisions have been enacted, to be in force throughout the whole of the *maháls* in question from the date of their promulgation.

II. Clause sixth, section 17, Regulation II, 1795, Section 8, Regulation V, 1795, and Regulation XV, 1795 are hereby declared subject to the following modifications.

Clause sixth, section 17, Regulation II, 1795, section 8, Regulation V, 1795, and Regulation XV, 1795, modified.

III. The superintendence of the *maháls* above mentioned shall be vested in such officer as the Governor-General in Council may from time to time by an order in council appoint.

The superintendence of Bhurdoi and other *maháls*, constituting the family domain of the Rájá of Benares, to be vested in such officer as the Government may appoint.

IV. The administration of justice in all matters connected with the revenue shall continue to be conducted through the agency of the Rájá under the restrictions herein provided, but the reservation of this privilege shall not be understood as divesting the population of any of the rights and interests connected with the occupation, possession or transfer of land, whether by sale, gift or inheritance, or the produce of it, which immemorially belong to them and are enjoyed by similar classes throughout the rest of the Province.

The administration of justice in matters connected with revenue to be conducted through the agency of the Rájá.

V. *First.* No *mufassal* or detailed settlement having been formed within the *maháls* in question by the authority of Government, the assessment of the land and the settlement of the several villages comprised in them shall be made through the channel of the Rájá, who is to be guided in all matters relative thereto by the general rules in force within the Province of Benares applicable to such cases.

Proviso. A detailed settlement of the lands to be made by the Rájá under the general rules in force.

Second. In the selection of parties to engage those individuals shall be considered entitled to preference who, had a detailed settlement been extended to these *maháls* under the Regulations of 1795, would have been recognized as

Rules for selecting the parties to be admitted to engage for the

payment of the revenue.

zemindárs. Such individuals shall be recorded under the designation of *räis*, and the tenures so belonging to them shall be considered heritable and transferable, subject to the conditions in regard to the payment of the *jamá* assessed upon them and under which they may be admitted to engagements. When there may be no *räis* entitled to claim admission or where the latter may refuse to engage on just terms, the settlement shall be made for a fixed period with farmers, unless the Rájá should prefer making a *raiyatwari* settlement and collecting the public dues through his own officers immediately from the *raiyats*.

Rules for fixing the assessment of *malguzári* lands.

Third. The assessment of all lands not entitled to be considered rent free under the rules contained in Regulation XLI, 1795 shall be fixed with reference, to their produce and capability as ascertained at the time when the revision of the settlement may be made. But the assessment shall not be raised above the amount heretofore paid, unless it shall clearly appear that the net profits derived from the land by those who may be entitled to share in them would under the usage of the province and the rules applicable to such cases authorize the increase demanded.

Admission to engagements not to affect the rights or interests of co-sharers or other tenants excepting in so far as may be specially authorized.

Fourth. In admitting particular parties to engagements such parties shall not be considered as invested with any rights over their co-sharers or under-tenants not previously possessed by them, excepting in so far as may be authorized by the Regulations for realizing the public revenue. All questions therefore between *pattídárs* and sharers inheriting or claiming to inherit joint or distinct portions of a tenure or the produce thereof shall notwithstanding such admission be considered open to adjustment on the principles observed in similar cases throughout the province, and all questions regarding the right to possession of *khúdkásht* and *chapparband raiyats* shall be adjusted on the same principles.

Points to be ascertained and recorded on the occasion of making or revising settlements.

Fifth. It shall be the duty of the Rájá on occasion of making or revising settlements of land revenue in any of the *maháls* referred to in Regulation XV, 1795 to unite with the adjustment of the assessment and the investigation of the extent and produce of the lands the object of ascertaining and recording all material points connected with the rights, interests and privileges of the various classes of his tenantry. His proceedings therefore shall embrace the formation of as accurate a record as possible of all persons found in possession of the soil with a specification of the nature and extent of the interests respectively enjoyed by them. The record shall likewise specify the rates per *bíghá* of each description of land or kind of produce in every distinct village. All *lakhiráj* tenures shall at the same time be carefully registered with a detail of every

And *lakhiraj* tenures to be registered with detail of particulars.

particular connected therewith. The proceedings shall likewise contain the names of the *patwáris* and village watchmen with a statement of the amount and nature of the allowance assigned to each.

Rules for estates held in joint property.

Sixth. In cases where two or more persons may possess a joint property in any *mahál* or in the rent or produce thereof, or in cases where such property may be separately possessed by parties subject to common obligations, it shall be competent to the Rájá either to make a joint settlement with the parties collectively or with a portion of them selected to undertake the management as village *malguzárs*, due regard being paid to the wishes of the coparceners who until regularly separated shall continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue at the rates and in the mode heretofore in use or otherwise provided for by the Regulations for the Province of Benares.

Responsibility of parties under engagements, and of the *pattidárs* and sharers. Disputes between them how to be determined.

Seventh. When parties enter into engagements, who do not possess the entire proprietary right, but may be elected as managers by the coparcenary in general, the non-engaging parceners shall not be held answerable for the default of those individuals, save and except the portion of rent or revenue demandable from them respectively. The rights and interests distinct or common of the *pattidárs* or sharers shall not be prejudiced in other respects by such engagements and all disputes between the said sharers and the engaging proprietors shall be determined according to what shall be ascertained to be the respective rights of the parties agreeably to the principles of justice and the laws, customs and usages of the Province.

Proprietary rights in the land may be transferred by sale, gift, mortgage or otherwise.

VI. *First.* All proprietors of land in the Province of Benares being privileged to transfer to whomsoever they think proper by sale, gift, mortgage or otherwise their proprietary right in the whole or any portion of their respective estates, provided that such transfer be conformable to the Hindú or Mahómadan laws according to the religious persuasion of the parties and to the Regulations in force, it is hereby declared that all such assignments within the tracts, to which this enactment refers, shall be held equally valid, subject to the conditions in regard to leases and the allotment of *jamá* prescribed by the Regulations, provided always that the same be duly notified to the Rájá; otherwise the consequences of omitting to make such notification on similar occasions to the Collector will in like manner attach to all such transfers; the rules and restrictions applicable to Collectors being also applied to the Rájá subject to the orders of the Superintendent, who shall in this behalf possess and exercise the powers and authority of the Board of Revenue.

The same to be duly notified to the Rájá.

In cases of transfer or inheritance, the Rájá to record the mutation, on application, and to proceed as the Collectors are required to do.

Second. In all cases either of transfer or inheritance the Rájá, on application being made for that purpose, shall proceed to record the mutation and shall take such other steps for securing the rights and interests both of the public and of individuals, as the Collectors are required to do on similar occasions in the Benares Province.

The decision of the Rájá on the foregoing provisions, subject to revision by the Superintendent whose orders to be final, unless set aside by Government.

VII. The decision of the Rájá or his officers on all points connected with the foregoing provisions shall undergo the revision of the Superintendent, to whom the whole of the proceedings on the settlement or transfer of any estate shall be certified, and who after calling for such further information as may appear necessary shall confirm, modify or annul the same as he thinks proper; and the orders thus passed by the Superintendent shall be final unless altered or set aside by the Governor-General in Council.

Rules for realizing the public revenue.

VIII. The following rules are prescribed for the guidance of the Rájá and his officers in realizing the public revenue.

The Regulations in force at Benares for realizing the public revenues extended to tracts referred to in Regulation XV, 1795.

IX. The Regulations at present in force within the Province of Benares for enabling proprietors and farmers of land to realize their rents with punctuality, for prescribing the process by which the Revenue Authorities are to collect the revenue payable to Government from the lands, for the imprisonment of defaulters and for securing the ultimate recovery of arrears by a sale of the landed property from which it may be due, are hereby extended, as far as they may be applicable, to the tracts referred to in Regulation XV, 1795.

The Rájá authorized to exercise the powers of a Collector as far as regards the collection of the revenues, exclusive of the powers vested in him as *Zemindár*.

X. Exclusive of the powers vested in the Rájá as *zemindár*, by which he may distrain and bring to sale in the mode prescribed by the Regulations the personal property of under-*zemindárs*, farmers, *raiyats* or other description of landholders for arrears of rent or revenue, he is hereby moreover authorized as far as regards the collection of the same to exercise the powers of a Collector as defined in the Regulations within the tracts in question, subject to such restrictions and responsibility as may be now or hereafter imposed by this or any future enactment.

Sale of lands for arrears of revenue, or under decrees of Courts, to be held in the presence of the Rájá or his deputy, and the rules of Regulation XI, 1822, to be observed in such cases.

XI. Whenever it may be necessary to resort to the sale of lands for the recovery of arrears of revenue, or whenever a sale of lands may be required in satisfaction of the decrees of the Courts of Judicature, the sale shall be held in the presence of the Rájá or his deputy either in the public *kachahrí* or such other open or convenient place within the *pargána* to which the lands belong, as may be specified in the advertisement, and the course of proceeding directed in regard to sales by Regulation XI, 1822, shall be considered applicable, and the validity

of such sales held contingent on the fulfilment of the several conditions therein specified.

XII. The whole of the powers which are exercised by the Boards of Revenue over the Collectors in regard to sales of land, as well as in all matters relative to the collection of public revenue are hereby vested in the Superintendent; and the Rájá shall consider himself in the exercise of the privileges with which he is intrusted as standing in the same relation towards that officer as the Collectors at present stand towards the Board.

The powers exercised by the Boards of Revenue in regard to sales of land and collection of revenue vested in the Superintendent, and the Rájá to stand in the same relation towards that officer, as Collectors are towards the Boards.

XIII. From the orders of the Superintendent in all such cases there shall be no appeal but to the Governor-General in Council, and the Civil Courts are not competent to take cognizance of any complaint from any party soever, contesting the validity of a sale, or claiming rights or interests connected with land or the rents thereof within the tracts in question.

From the orders of the Superintendent, an appeal to lie to Government. Civil Courts prohibited from taking cognizance of complaints relating to lands.

XIV. All complaints of a breach of the rules herein prescribed for the guidance of the Rájá and his officers in the exercise of the powers thereby intrusted to them or of unnecessary severity in the execution of them are declared cognizable by the Superintendent, who shall cause substantial justice to be rendered to the parties in the same manner as would have been done under the Regulations, had such complaints been cognizable by the regular Courts; provided only that, when the offence alleged would authorize a criminal prosecution, the complaint shall be referred to the Magistrate, who will proceed to the decision thereof under the Regulations in the same manner as if it had been originally preferred to him.

Complaints against the Rájá and his officers for breach of these rules to lie to the Superintendent.

If offence alleged be of a criminal nature, the complaint to be referred to the Magistrate.

XV. Torture, personal violence and every description of corporal punishment to enforce the payment of arrears of rent or revenue within the tract in question are hereby strictly prohibited, and any one offending against this prohibition shall on the complaint of a person so punished be liable to prosecution before the Criminal Courts, and shall be dealt with on conviction as the Regulations require in such cases.

Certain offences to enforce payment of arrears of rent strictly prohibited, and to subject the offender to prosecution before the Criminal Court.

XVI. In order to secure for the inhabitants of these *maháls* the administration of civil justice on the principles in force throughout the rest of the province a Native Commissioner shall be maintained by the Rájá in each of the

A Native Commissioner to be maintained by the Rájá in

each *pargána*, to take cognizance of revenue causes.

pargánas referred to in Regulation XV, 1795 for the purpose of taking cognizance in the first instance of the revenue causes hereafter specified.

The nomination of the individuals will be made by the Rájá, but the confirmation to rest with the Superintendent.

XVII. The nomination of individuals to the office of Native Commissioner will be made by the Rájá, but previous to such appointments taking effect he shall communicate what information he may have obtained regarding the age, character and past employment of the individuals in question to the Superintendent, who shall withhold his concurrence in cases of notorious bad character or incapacity, having regard however as far as possible in the mode of doing so to the Rájá's honour and dignity.

The Native Commissioner not to be removed from office, and the Rájá to act in cases of removal in concert with, and by the advice of, the Superintendent.

XVIII. No Native Commissioner appointed under this Regulation shall be removed from office without sufficient cause, and in all cases of removal the Rájá shall act in concert with and by the advice of the Superintendent.

The Native Commissioners liable to criminal prosecution for certain offences, and to fine and imprisonment on conviction.

XIX. The Native Commissioners shall be liable to a criminal prosecution for corruption, extortion or other gross misdemeanour, and on conviction before the Court of Circuit shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case.

Powers and authority of a Native Commissioner.

XX. Persons invested with the powers of the Native Commissioner under this Regulation are authorized to receive, try and determine all suits preferred to them against any inhabitants of their respective jurisdictions relative to land of every description, or the rent, revenue or produce thereof, situated therein; provided the cause of action shall have arisen within the period of twelve years previously to the institution of suits.

Rules for the guidance of the Native Commissioners.

XXI. In receiving, trying and determining such cases the Native Commissioners shall be guided by the rules contained in Regulation XXIII, 1814, and in points not expressly provided for in that Regulation they shall observe as nearly as may be practicable the rules prescribed for the guidance of the *Zillah* and City Courts in the trial and decision of civil suits.

[Reg. XXIII of 1814 has been repealed.]

Exception.

XXII. The rule which prohibits native judicial officers from taking cognizance of cases in which a British subject or a European foreigner or an American may be a party, shall not be held applicable to the Native Commissioners appointed under this Regulation.

XXIII. The decision of the Native Commissioners shall be executed by themselves, under the rules prescribed in the general Regulations for the execution of decrees; provided however that, if the case be appealed, the Commissioner shall be guided by such instructions relative thereto, as he may receive from the Superintendent.

Native Commissioners to execute their decisions, subject, in cases of appeal, to instructions of the Superintendent.

XXIV. The proceedings of the Native Commissioners shall be subject to the revision of the Superintendent, who in the event of an appeal being preferred to him within the period of six months from the date of any such decision will call for the papers and, after directing such further investigation to be held as he may judge necessary, will confirm, modify or annul the order or decision of the Native Commissioner, as may appear proper; provided always that it shall be competent to the Governor-General in Council to supersede the order of the Superintendent, on being referred to by either party for that purpose.

The proceedings of the Native Commissioners subject to revision by Superintendent in cases appealed within six months. Government empowered to supersede the order of the Superintendent, if referred to.

XXV. The penalties prescribed by the Regulations for resistance of process in revenue or judicial matters are hereby declared applicable to all cases of the same nature arising out of the process provided for by this enactment.

Penalties for resistance of process declared applicable to cases under this Regulation.

XXVI. It is hereby further declared and enacted that, except when otherwise directed by the foregoing provisions, the revenue and judicial administration of the *mahâls* herein referred to shall be regulated by the principles and spirit of the existing Regulations and, where those may not be applicable, by equity and good conscience.

The revenue and judicial administration of the *mahâls* herein referred to, to be regulated according to the Regulations, except when otherwise directed by this Regulation.

REGULATION I OF 1829.

A REGULATION *for constituting Commissioners of Revenue and Circuit, for establishing a Sadr Board of Revenue, for modifying the constitution of the Provincial Courts, for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the Mufassal Special Commissioners acting under the provisions of Regulation I,* 1821, *and otherwise for providing for the better administration of Civil and Criminal Justice.*—PASSED *by the Governor-General in Council on the* 1st *January* 1829.

The system in operation for superintending the Magistracy and the Police and for controlling and directing the executive Revenue Officers, who in several

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cases are also Magistrates, has been found to be defective. The Provincial Courts of Appeal and Circuit as now constituted, partly from the extent of country placed under their authority and partly from their having to discharge the duties of both civil and criminal tribunals, have in many cases failed to afford that prompt administration of justice which it is the duty of Government to secure for the people. The Gaol Deliveries have been in some instances delayed beyond the term prescribed by law, especially in the division of Bareilly, which comprises thirteen stations at which Gaol Deliveries have to be held besides the Joint Magistracies of Belah and Sirpúrah, and a great arrear of cases under appeal has accrued in all the Courts to the manifest injury of many individuals and to the encouragement of litigation and crime. The Judges of Circuit when employed singly in the districts under their authority do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge to enable them adequately to control the Police or protect the people. The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement, and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over the executive officers, and as the confidential advisers of Government. For the correction of the above defects it has appeared to be expedient and necessary to place the Magistracy and Police and the Collectors and other executive Revenue Officers under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers now vested in the Courts of Circuit, together with those that belong to the Boards of Revenue, to be exercised with the modifications hereinafter provided, the former under the authority of the Nizámat Adálat, and the latter under the instructions and control of the Sadr or Chief Board of Revénue, and altogether to disjoin the functions of the Courts of Circuit from those of the Judges of Appeal. It has at the same time appeared to be necessary, with a view to the more speedy and effectual redress of the wrongs which the people have suffered in several of the districts of the Western Provinces under the circumstances detailed in the preamble of Regulation I, 1821, to transfer to the said Commissioners of Revenue and Circuit the powers and authority now exercised by the Mufassal Special Commissioners acting under the provisions of that law, with certain modifications hereinafter specified. It has likewise been deemed expedient to extend the system of administration which has been for some years followed in Cuttack to the adjoining district of

Midnapore and to certain other districts in the vicinity of tracts of which the affairs are conducted on similar principles; and further with a view to public economy it has been deemed proper to abolish the office of Superintendent of Police, the necessity for which is superseded by the appointment of Commissioners. With the above views and purposes the Governor-General in Council has enacted the following rules, to be in force from the 1st March 1829 throughout the provinces immediately subject to the Presidency of Fort William.

II. A Commissioner of Revenue and Circuit shall be appointed for each of the undermentioned divisions; provided however that it shall be competent to the Governor-General in Council by an order in council to transfer any district or districts from one division to another, and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient, due notice of any such arrangement being given by public proclamation.

Commissioners of Revenue and Circuit to be appointed for certain divisions specified. Governor-General in Council competent to extend or reduce the limits of divisions. And to increase or diminish the number of Commissioners. Notice of such arrangement to be given by proclamation.

1st	Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of ..	Saharunpore, Mozuffernuggur, Mírut, and Búlundshahar.
2nd	Ditto ditto of	Agra, Allighur, and Sydabad.
3rd	Ditto ditto of	Furruckabad, Mynpúrí, Sirpúra, and Etawah.
4th	Ditto ditto of	Moradabad, Nugína, and Suhswan.
5th	Ditto ditto of	Bareilly, Shahjehanpore, and Phillibhít.
6th	Ditto ditto of	Cawnpore, Belah, and N. Bundlekund.

7th	Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of ...		Allahabad, Futtehpore, and Banda.	
8th	Ditto	ditto of	Benares, Mirzapore, and Juanpore.	
9th	Ditto	ditto of	Goruckpore, Azimghur, and Ghazípore	
10th	Ditto	ditto of	Sarun, Shahabad, and Tirhút.	
11th	Ditto	ditto of	Patna, Behar, and Ramghur.	
12th	Ditto	ditto of	Bhaugulpore, Monghyr, Malda, and Purnea.	
13th	Ditto	ditto of	Dinagepore, Rungpore, Rajshahye, and Bograh.	
14th	Ditto	ditto of	Múrshedabad, Bírbhúm, and Nuddea	
15th	Ditto	ditto of	Dacca, Dacca Jelalpore, Tipperah, and Mymansing	
16th	Ditto	ditto of	Chittagong and Noakholly	To be placed under the Officer appointed to control the affairs of Arrakan.

17th	Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of ...	Sherpore, and Sylhet.	To be placed under the Commissioner of Assam and the N. E. parts of Rungpore.
18th	Ditto ditto of ...	Bakergunge, Jessore, Suburbs of Calcutta, 24-Pergunnahs, and Baraset.	
19th	Ditto ditto of ...	Cuttack, Khúrda, Balasore, Midnapore, and Nugwan, including Hidgellí.	
20th	Ditto ditto of ...	Burdwan, Jangal Maháls, and Húghly.	

[See s. 5, Reg. X of 1831.]

IV. *First.* The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sadr or Head Board to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor-General in Council, and to such restrictions and provisions as the Governor-General in Council or the said Sadr Board with his authority or sanction may prescribe.

Commissioners, until otherwise provided by law, to possess within the limits of their respective divisions all the powers and authority now vested in the Boards of Revenue and the Courts of Wards, subject to the direction and control of the Sadr Board at the Presidency, and such restrictions as Government or the Sadr Board with the sanction of Government may prescribe.

[See s 2, Reg. X of 1831.]

Second. In regard to the form of their proceedings in the Revenue Department the Commissioners and the Sadr Board shall be guided by such orders as the Governor-General in Council may from time to time issue, and it shall be competent to the Governor-General in Council to fix the Stations at which the Board and the Commissioners, when not employed on the duties of Circuit, shall

The Sadr Board and the Commissioners to be guided in regard to the form of their proceedings in the Revenue

Department by such orders as may from time to time be issued by the Governor-General in Council.

Governor-General in Council competent to fix the Stations at which the Sadr Board and the Commissioners, when not employed on circuit duties, shall reside, but such station to be within the territories subject to this Presidency.

reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient.

When the tract comprising the jurisdiction of a Magistrate or Joint Magistrate of one division may be under a Collector or Deputy Collector attached to another division, the Governor-General in Council may determine the nature and extent of the Revenue powers to be exercised respectively by the two Commissioners thus jointly concerned.

Third. Provided also that in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor-General in Council shall determine by an order in council the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected.

All provisions in the Regulations defining duties and powers of Revenue Boards and Courts of Wards or of single members thereof, which are inconsistent with arrangements now prescribed, rescinded.

VI. Such of the provisions of the existing Regulations for defining the duties and powers of the Revenue Boards and Courts of Wards or of single members thereof, as may be inconsistent with the arrangement above prescribed, are and shall be considered to be annulled.

VII. The offices of Superintendents of Police in the Lower and Western Provinces are hereby abolished, and the provisions of Regulation X, 1808 and other Regulations subsequently enacted in regard to the said offices are hereby rescinded: provided however that the Commissioners of Revenue and Circuit shall and may for their respective divisions perform all the duties and exercise the powers heretofore belonging to the Superintendents of Police, save and except those vested in them by Regulation X, 1824 in regard to the pardon of persons charged with or suspected of criminal offences previously to the trial of the case at Sessions. The several Magistrates and Joint Magistrates are authorized to tender a pardon in the several cases specified in the said Regulation without reference to any other authority, subject to the other provisions therein contained and under their general responsibility to the superior Courts and Government for the sound exercise of the discretion vested in them.

Offices of Superintendents of Police abolished. Regulation X, 1808, and other subsequent Regulations relative to the above office rescinded. Proviso: Commissioners of Revenue and Circuit to perform for their respective divisions all duties heretofore discharged by the Superintendents of Police. But not to exercise the powers given in Regulation X, 1824 in regard to tender of pardon to accomplices. Such powers to be exercised by the Magistrates and Joint Magistrates, subject to certain restrictions.

[Reg. X of 1824 has been repealed, and the grant of pardons is now regulated by the provisions of the Code of Criminal Procedure.

The office of *Superintendent of Police* was for a time revived by Act XXIV of 1837, which has however been repealed, thus leaving the law in its former position. This officer must not be confounded with the present District Superintendent of Police appointed under Act V of 1861.]

VIII. The Commissioner for the division of Cuttack and Midnapore shall possess and exercise throughout the districts under his authority the same powers as belong to him in the first mentioned province. But so much of Clause 5, Section V, Regulation V, 1818 as provides that the decisions passed by the Commissioner in original civil suits or in appeals cognizable by him shall (with the exception therein stated) be final, is hereby rescinded; and the Commissioner shall accordingly in his capacity of a Judge of appeal be subject to the Sadr Díwání Adálat in like manner as other Provincial Judges: provided also that in the Revenue Department the Commissioner shall be subject to the Sadr Board in like manner as the Commissioners of other divisions.

Powers and authority vested in the Commissioner in Cuttack, extended to the district of Midnapore. Proviso. Clause 5, section 5, Regulation V, 1818 amended—Commissioner for the Cuttack Division in his capacity of Judge of appeal declared subject like all other Judges of Provincial Courts to the Court of Sádr Díwání Adálat. Further Proviso. Commissioner in his revenue capacity to be subject to the Sádr Board of Revenue.

[So much of this section as confers upon the Commissioner for the Division of Cuttack the powers of a Provincial Court of Appeal in regard to the District of Midnapore was repealed by s. 2, Reg. I of 1830. The whole of Reg. V of 1818 was repealed by Act VIII of 1868, save as provided in s. 1, q. v.]

Commissioners of Arrakan and Assam to possess within the Bengal portions of their divisions the same powers as are vested in the Commissioner of Cuttack.

IX. *First.* The Commissioners of Arrakan and Assam shall possess and exercise within the districts of Bengal, which are by this Regulation attached to their respective divisions, the same powers as belong to the Commissioner of Cuttack, modified as above.

[See Acts II of 1835, XII of 1862 and VIII of 1874.]

Commissioner in the Northern Division of the Doab to possess the same powers.

Proviso: The Resident at Dehli to possess in respect to that division the powers now vested in the Courts of Sadr Díwání Adálat and Nizámat Adálat, as well as the powers of the Sadr Board of Revenue.

All provisions of existing Regulations to the contrary, declared to be rescinded.

Proviso: The Court of Nizámat Adálat to complete all trials referred prior to the enforcement of this Regulation, and the Court of Sadr Díwání Adálat to decide all appeals now before them (except the appellant prays to have his case transferred to Dehli), and to issue all orders necessary to the complete execution of their decisions.

Second. The like powers shall belong to the Commissioner for the districts of the Northern Doab, Saharanpore, Mozuffernuggur, Mírut and Búlundshahar; provided also that in regard to those districts the Resident at Dehli shall possess and exercise the powers now vested in the Courts of Sadr Díwání and Nizámat Adálat, together with those which are in other parts of the country to be exercised by the Sadr Board, and so much of the existing Regulations as vest the said Courts with civil and criminal jurisdiction within the said districts is hereby rescinded: provided however that the Nizámat Adálat shall complete the trial of all criminal cases referred to them prior to the date on which this Regulation takes effect, and that the Courts of Sadr Díwání Adálat shall and may (excepting in cases in which the appellant may pray to have his case transferred to the Resident's Court at Dehli) proceed to the decision of all cases now actually before them in appeal, or which may be appealed to them before the date fixed for the operation of this Regulation, and to do and order all things necessary to the investigation and decision of the cases, or to the execution of their decrees and judgments, in like manner as they might do and order in the other districts of the Ceded and Conquered Provinces.

[So much of this clause as declares that the Resident at Dehli shall possess and exercise within the districts of the Northern Doab, Saharanpore, Mozuffernuggur, Mírut and Búlundshahar the same powers which are in other parts of the country exercised by the Sádr Board, was repealed by s. 4, Reg. X of 1831; and so much of the same clause as vests the said Resident with the powers of the Sadr Díwání and Nizámat Adálat within the districts of the Northern Doab was repealed by cl. 1, s. 8, Reg. VI of 1831.]

Office of Mufassal Special Commission abolished, and the powers vested therein to be vested in the Commis-

X. *First.* The office of Mufassal Special Commission acting under the provisions of Regulation I, 1821 is hereby abolished. The powers vested in them shall be possessed and exercised by the Commissioners of Revenue and Circuit to be appointed under this Regulation within their several divisions, and all cases now pending before the Mufassal Special Commission shall be

transferred to the Commissioner of the division to which the property in litigation may belong. The powers and authority of the Sadr Special Commission shall, with exception to cases actually depending before them at the date of the operation of this Regulation, be vested in the Sadr Board. They shall not receive any appeals after the 1st March 1829, and the Commission shall altogether cease and determine whenever the cases now in appeal or which may be apppealed before the above date shall have been decided. But in regard to such cases the Commissioners of Revenue and Circuit, to whose divisions they respectively belong, shall give effect to all orders of the Sadr Special Commission in like manner as the Mufassal Commissioners would have done.

sioners within the limits of their respective divisions.
Cases now pending to be transferred to the Commissioner of the Division to which they belong.
Powers of Sadr Special Commission to be vested, with certain exceptions, in the Sadr Board, and no new appeals to be received by that Court after the 1st March, 1829.
The Commission to cease and determine so soon as the appeals now pending and such as may be filed before the above date shall have been decided.
In regard to such cases, Commissioners of Revenue and Circuit to give effect to orders of the Sadr Special Commission.

Second. Provided also that so much of Regulation I, 1821 and Regulation I, 1823, as restricts the jurisdiction of the Special Commissioners acting under the provisions of the first mentioned Regulation to cases in which the sale or other act complained of occurred previously to the year 1217 Fuslee, is hereby rescinded, and that it shall and may be lawful for the Commissioners of Revenue and Circuit in the Ceded and Conquered Provinces to take cognizance within their respective jurisdictions of all claims of the nature of those cognizable by the Special Commissioners acting under the provisions of Regulation I of 1821, of which the cause of action may have arisen at any time previously to the 1st March 1829, and to try and determine the same, subject to an appeal to the Sadr Board or to the Resident of Dehli as the case may be, with the same powers and authority as are vested in the said Commissioners. All cases now pending before the Courts of Justice, of which the cognizance has by this Regulation been vested in the Commissioners of Revenue and Circuit, shall be

Limitation, in regard to cognizance of actions under Regulation I, 1821, and I, 1823, rescinded.
Commissioners empowered to take cognizance within their respective divisions of claims declared cognizable by Regulation I, 1821, the cause of action in which may have arisen before the 1st March 1829.
Appeal to lie to the Sadr Board or Resident at

Dehli, as the case may be. All cases of the above nature now pending before the Courts of Justice to be transferred to the Commissioners.

transferred to the Commissioner of the division to which the property in litigation may belong.

[It was enacted by s. 3 (now repealed), Reg. IV of 1829, that the above rule was not to extend to the Court of Sadr Díwání Adálat.

The above provisions as to the transfer of pending cases were modified by s. 3, Reg. XVIII of 1829, which has been also repealed.]

Commissioners may require Collectors and Deputy Collectors to report to them on such claims. And except in cases open to appeal to the King in Council, a special appeal only shall lie from the decisions of the Commissioners to the Sadr Board.

Third. Provided further that it shall and may be lawful for the Commissioners of Revenue and Circuit to require the Collectors or Deputy Collectors under their authority to investigate and report upon the several claims preferred to them or which may be transferred to them as above, and that, excepting in cases appealable to the King in Council, a special appeal only shall lie from their decisions, that is to say, the Sadr Board shall not be bound to admit any such appeal unless they shall, on the face of the decree passed by the Commissioner considered along with the petition of the appellant and the rubakari or report of the Collector, see reason to think that justice has been denied to the party, or that the public interests have not been sufficiently attended to.

[Section 1, Act III of 1835 provided that no new claims should be admitted under the provisions of Reg. I of 1821, Reg. I of 1823, and cl. 2, s. 10, Reg. I of 1829. S. 3 of the same Act provided for the disposal of cases then pending before the Commissioners and the Sadr Board; and s. 2 enacted that all such claims should thereafter be cognizable in the regular Courts of Justice in conformity with the provisions of the general Regulations and without reference to the above special enactments. Finally the whole of Regs. I of 1821, I of 1823, and Act III of 1835 was swept away by the general repealing Act VIII of 1868, save as provided in s. 1, *id.*, *q.v.*]

REGULATION IV OF 1829.

A REGULATION *for modifying in certain cases the rules laid down in clauses fourth and fifth, Section 2, Regulation III,* 1828, *relative to Appeals to the Special Commissioners appointed under that Regulation, also for modifying part of clause second, section X, Regulation I,* 1829.—PASSED *by the Governor-General in Council on the 5th May* 1829.

Preamble.

Whereas it is necessary to make provision for the trial of appeals, which by Clause 5, Section 2, Regulation III, 1828 are declared to lie to the Special Commissioner appointed under that Regulation, but in which the order or judgment appealed against may have been passed in the first instance by the said Commissioner; and it being desirable to modify the rule in Clause 2, Section 10, Regulation I, 1829, which declares that all cases then pending before the Courts of Justice, of which the cognizance has by that Regulation been vested in the Commissioner of Revenue and Circuit, shall be transferred to

the Commissioner of the Division to which the property in litigation may belong—the following rules have been enacted, to be in force from the date of their promulgation throughout the provinces immediately subordinate to the Presidency of Fort William.

II. *First.* In modification of the rules contained in Clauses 4 and 5, Section 2, Regulation III, 1828 it is hereby enacted that, whenever the act or judgment appealed against may have been done or passed by a Special Commissioner appointed under the Regulation above cited, such case shall not be cognizable by the said Commissioner whether he may have been at the time, when such act or judgment was done or passed by him, exercising the powers of a Collector or Member of a Board of Revenue [or] a Judge of [a] Zillah Court.

Whenever the act or judgment appealed against may have been done or passed by a Special Commissioner appointed under Regulation III, 1828, such case shall not be cognizable by the said Commissioner.

Second. Whenever a petition of appeal in a case of the above nature may be preferred to a Special Commissioner, he is hereby directed and required to report the circumstances of the case for the orders of Government, and it shall be competent to the Governor-General in Council to direct some other Special Commissioner or such other tribunal as he may deem proper to receive and decide the appeal agreeably to the Rules and Regulations applicable to the case.

Whenever a petition of appeal in a case of the above nature may be preferred to a Special Commissioner, a report of the circumstances of the case to be made to Government for orders. Government competent to direct some other tribunal to receive and decide the appeal.

REGULATION XVII OF 1829.

A REGULATION *for declaring the practice of Satí or of burning or burying alive the Widows of Hindús illegal and punishable by the Criminal Courts.*—PASSED *by the Governor-General in Council on the 4th December* 1829.

The practice of Satí or of burning or burying alive the widows of Hindús is revolting to the feelings of human nature, it is nowhere enjoined by the religion of the Hindús as an imperative duty, on the contrary a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed. In some extensive districts it does not exist. In those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindús

Preamble.

themselves and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor-General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations the Governor-General in Council—without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages so long as that system can be adhered to without violation of the paramount dictates of justice and humanity—has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

The practice of Satí or of burning or burying alive the widows of Hindús declared illegal and punishable by the Criminal Courts.

II. The practice of Satí or of burning or burying alive the widows of Hindús is hereby declared illegal and punishable by the Criminal Courts.

All zemindárs, tálukdárs, &c. held responsible for the immediate communication to the officers of the nearest Police station of any intended sacrifice. Penalty in case of neglect.

III. *First.* All zemindárs, tálukdárs or other proprietors of land, whether malguzárí or lakhiráj, all sadr farmers and under-renters of land of every description, all dependent tálukdárs, all naibs and other local agents, all native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages are hereby declared especially accountable for the immediate communication to the officers of the nearest Police station of any intended sacrifice of the nature described in the foregoing section, and any zemindár or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Police daroghas how to act on receiving the intelligence of the intended sacrifice.

Second. Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the Police darogha shall either repair in person to the spot or depute his muharrir or jamâdar accompanied by one or more barkandazes of the Hindú religion, and it shall be the duty of the Police officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that in the event of their persisting in it they will involve

themselves in a crime and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the Police officers to use all lawful means in their power to prevent the sacrifice from taking place and to apprehend the principal persons aiding and abetting the performance of it, and in the event of the Police officers being unable to apprehend them they shall endeavour to ascertain their names and places of abode and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act when the intelligence of a sacrifice may not reach them, until after it shall have actually taken place.

Third. Should intelligence of a sacrifice declared illegal by this Regulation not reach the Police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full enquiry into the circumstances of the case in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

REGULATION V OF 1830.

A REGULATION *for amending the provisions of Regulation VI,* 1823, *and for providing more effectually for enforcing the execution of Contracts relating to the cultivation and delivery of Indigo Plant.*—PASSED *by the Governor-General in Council on the* 9*th June* 1830.

Preamble.

Whereas the rules contained in Regulation VI, 1823 (extended to the Provinces of Orissa, Bahár and Benares, and to the Ceded and Conquered Provinces by Regulation V, 1824) for enforcing the execution of contracts relating to the cultivation and delivery of indigo plant have been found in a great measure ineffectual, and whereas it is deemed just and proper to extend the penalties prescribed by section 5, Regulation VII, 1819 to contracts for the cultivation of indigo plant, and to provide for the punishment of persons convicted of damaging indigo crops; and whereas it is desirable in certain cases to afford persons, who may be unwilling to renew their contracts for the cultivation of indigo, the means of obtaining by summary process a release from their engagements—the following rules have been enacted to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

[Reg. VII of 1819 has been repealed.]

Persons wishing to be released from their engagements to petition the Judge in certain cases. The Judge to hold a summary enquiry. If no balance be due from the petitioner, or the balance be deposited in Court, the Judge to grant a release and pay the balance to the proprietor of the factory.

V. *First.* Any person, who having received advances under a written agreement for the cultivation of indigo shall be desirous on the expiration of the period of his contract to settle his account, shall be at liberty, in the event of the proprietor of the factory or the person acting in his behalf refusing to settle the same, to present a petition to the *Zillah* Court, and the Judge after a summary enquiry in the presence of the parties or their authorized agents into the merits of the case, shall, on proof of the expiration of the contract and of there being no balance due from the petitioner or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor or to the person acting in his behalf.

The Judge how to proceed, if the proprietor objects to receive the balance.

Second. If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

REGULATION VI OF 1831.

A REGULATION *for the appointment of one or more Judges to be ordinarily stationed at Allahabad for the purpose of exercising the powers and authority of the Sadr Díwání and Nizámat Adálat within the Province of Benares, the Ceded and Conquered Provinces, including the Districts of Mírut, Saharanpore, Mozuffernuggur and Búlundshahar, which are now subject to the Chief Commissioner at Dehli—and the powers and authority of the Nizámat Adálat in the Province of Kumaon and the Saugor and Narbadda Territories.*—PASSED *by the Vice-President in Council on the* 1*st November* 1831.

The powers and duties of the Sadr Courts for the Western Provinces to be the same as those of the Calcutta Sadr Courts.

VI. The Courts of Sadr Díwání and Nizámat Adálat for the Western Provinces constituted by this Regulation shall possess within the divisions, provinces and territories subject to their jurisdiction all the powers vested under the existing Regulations in the Courts of Sadr Díwání Adálat and Nizámat Adálat constituted by section 2, Regulation VI, and section 67, Regulation IX, 1793, and shall perform all the duties required to be performed by those Courts under Regulations VI and IX, 1793 and under all other Regulations which have been passed and published in the mode prescribed by Regulation XLI, 1793, subject to all the modifications and provisions contained in such Regulations and to the following further provisions.

VII. *First.* The Courts of Sadr Díwání and Nizámat Adálat for the Western Provinces are to be open Courts, and to be holden as directed in section 3, Regulation VI, and section 67, Regulation IX, 1793, as soon as a convenient place shall have been provided for the purpose. Whenever and so often as only one Judge may be present with the Courts, or if any difference of opinion should arise when only two Judges may be present in either Court in any matter requiring under the existing Regulations the concurrent voices of two Judges, the question shall be referred, as the case may be, for the determination of one of the Judges of the Court of Sadr Díwání or Nizámat Adálat stationed at Calcutta.

The Sadr Courts for the Western Provinces to be open Courts, and to be holden as prescribed by Regulations for the Calcutta Sadr Courts. Rule to be observed in cases requiring the concurrent opinion of two Judges.

Second. Provided moreover that in such case it shall be sufficient that the Judge to whom the point may be referred should form and record his judgment on a careful perusal and consideration of the proceedings and without requiring the attendance of the parties or their vakíls.

Proviso.

[This section, so far as it relates to the Court of Sádr Diwaní Adálat, was repealed by Act VIII of 1868, save as provided in s. 1, *id.*, *q. v.* See however s. 27 of the Letters Patent, 1866.]

IX. The powers and authority heretofore vested in the Nizámát Adálat stationed at Calcutta over the Province of Kumaon by Regulation X, 1817 are hereby transferred to the Nizámát Adálat for the Western Provinces.

The powers and authority vested in the Calcutta Nizámat Adálat over the Province of Kumaon transferred to the Nizamat Adálat for the Western Provinces.

X. The administration of the Police and of criminal justice in the Saugor and Narbadda Territories has been heretofore conducted by British officers under instructions issued for their guidance by the Governor-General in Council, but it is hereby declared that from and after the date of the promulgation of this Regulation as regards criminal matters those territories shall be subject to the Nizámát Adálat for the Western Provinces.

The Saugor and Narbadda Territories declared subject to the Nizámat Adálat for the Western Provinces.

XI. The Commissioner, to whom the superintendence of the territories in question is or may be confided, is hereby declared competent to hold trials and pass sentence to the extent permitted by the Regulations to a Commissioner of Circuit (but without reference of the proceeding for Fatwa to a Mahomadan Law Officer), as well as to exercise all the functions and authorities now exercised by the Commissioners of Circuit under Regulation I of 1829.

Duties and authority to be exercised by the Commissioner for the Saugor and Narbadda Territories.

In criminal matters, the Commissioner and all other officers to conform to the spirit of the Regulations, and to furnish such periodical reports and statements as may be prescribed. But shall obey and conform to all special rules.

XIV. In the conduct of criminal trials and in all other matters the Commissioner as well as the Police officers and all other officers acting under his control shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects and shall regularly furnish to the Nizámat Adálat in the Western Provinces all such statements and reports as are prescribed by the existing Regulations to be submitted by the Commissioners of Circuit, or as may be specially prescribed in future by the authority to whom by this Regulation they are declared to be subordinate.

Reservation to the Governor-General in Council of the power of regulating sundry matters connected with the Commissioner in criminal jurisdiction.

XV. Provided however that it shall be competent to the Governor-General in Council to issue any special rules or orders that may from time to time be deemed necessary for regulating the process before trial or the form of trial to be observed within the territories subject to the Commissioner, as well as to extend or modify the judicial functions vested in the Commissioner by the preceding provisions. An order or resolution of Government under the official signature of a Secretary to Government shall be sufficient authority for such extension or modification.

REGULATION X OF 1831.

A REGULATION *for vesting in a Deputation from the Sadr Board of Revenue to be ordinarily stationed at Allahabad the exclusive control over the Revenue Affairs of the Province of Benares, the Ceded and Conquered Provinces, including the Districts of Mírat, Saharunpore, Mozuffernuggur and Búlundshahar (which are now subject to the Chief Commissioner at Dehli), the Province of Kumaon and the Saugor and Narbadda Territories.*—PASSED *by the Vice-President in Council on the* 1*st November* 1831.

Preamble.

Whereas it appears requisite for the efficient superintendence of the settlements now in progress in the Western Provinces and generally for the due superintendence of the revenue arrangements in those remote dependencies to provide for the temporary deputation of one or more members from the Sadr Board to be ordinarily stationed at Allahabad and to possess exclusive control in those matters over the tracts of country placed under their management; and whereas it is necessary for this purpose to divest the members of the Sadr Board, who may be stationed at the Presidency, of all power and authority within the tracts in question—the following rules have been enacted to be in force from the 1st of January 1832 throughout the provinces immediately subject to the Presidency of Fort William.

II. So much of section 4, Regulation I, 1829 as provides that the several Commissioners of Revenue shall be subject to the control and direction of a Sadr or Head Board, whose jurisdiction is declared to extend over the whole of the divisions specified in that Regulation with the exception of the tracts of country exempted from such jurisdiction by clause 2, section 9, is modified as follows.

So much of section 4, Regulation I, 1829, as provides that the Commissioners of Revenue shall be placed under the Sadr Board, and extends the jurisdiction of that Board over all the divisions, modified.

III. It shall be competent to the Governor-General in Council to depute one or more Members of the Sadr Board to be ordinarily stationed at Allahabad and to exercise exclusive control and direction over the revenue affairs of the tracts hereinafter mentioned, in like manner as is now exercised by the Sadr Board at the Presidency.

Governor-General in Council declared competent to depute one or more Members of the Board to be stationed at Allahabad, and to exercise exclusive control and direction over the revenue affairs of the tracts hereinafter mentioned.

IV. So much of clause 2, section 9, Regulation I of 1829, as declares that the Resident of Dehli shall possess and exercise within the Districts of the Northern Doab, Saharanpore, Mozuffernuggur, Mírut and Búlundshahar the same powers which are in other parts of the country exercised by the Sadr Board, is hereby rescinded.

So much of clause 2, section 9, Regulation I, 1829, as vests the Resident of Dehli with powers of Sadr Board in the districts specified rescinded.

V. The jurisdiction of the Sadr Board on deputation shall comprise the tracts of country situated within the 1st to the 9th divisions inclusive, containing the districts specified in section 2, Regulation I, 1829, together with the Province of Kumaon and the Saugor and Narbadda Territories.

Jurisdiction of the Sadr Board on deputation defined.

VI. From and after the date of the promulgation of this Regulation the Sadr Board of Revenue at the Presidency and the Chief Commissioner at Dehli shall cease to exercise any interference with or control over the divisions and tracts specified in the preceding section: provided however that the Sadr Board of Revenue stationed at the Presidency shall complete the decision of all cases now actually before them in appeal or which may be appealed to them before the date fixed for the operation of this Regulation, and shall be competent to do and order all things necessary to the investigation and decision of the cases, or to the execution of such of their decrees or orders as may be in train of execution, excepting in cases in which the appellant may pray to have his case immediately transferred to the Sadr Board on deputation.

The interference and control of the Presidency Sadr Board and of the Chief Commissioner at Dehli over the tracts specified in the preceding section, to cease on the promulgation of this Regulation. Proviso.

In the conduct of the revenue duties of Kumaon and the Saugor and Narbadda Territories, the rules and principles of the Regulations shall be observed by the local authorities.

VII. In the conduct of the revenue duties of the tracts of country composing the Province of Kumaon and the Saugor and Narbadda Territories, as well those relating to the customs, abkari, stamps and other miscellaneous items, as to the land revenue, the local authorities shall observe the rules and principles of the general Regulations with such limitations and restrictions as may be provided in the instructions they may receive from the Sadr Board on deputation or the Governor-General in Council.

All the powers and authority vested in the Sadr Board at the Presidency, declared to belong to the Members of that Board on deputation.

VIII. The whole of the powers and authority now vested in the Sadr Board at the Presidency are hereby declared to belong to the Members on deputation within the tracts subject to their control, so long as this Regulation shall remain in force, who shall also be guided in their official proceedings by the existing rules applicable to that Board, subject to such restrictions and provisions as the Governor-General in Council may prescribe.

Rule of proceeding in cases requiring a concurrence of two voices.

IX. Whenever and so often as the number of Members present with the Board on deputation shall be reduced to one, or when two shall be present and a difference of opinion arise in regard to any matter which under the existing Regulations may require the concurrence of two voices, the question shall be referred for determination to the Sadr Board at the Presidency.

A similar rule to be applicable to the Sadr Board at the Presidency.

X. In like manner whenever and so often as the number of Members present with the Sadr Board at the Presidency shall be reduced to one, or when two shall be present and a difference of opinion arise in regard to any matter which under the existing Regulations may require the concurrence of two voices, the question shall be referred for determination to the Sadr Board on deputation. And in both cases the decree, award or order in the matter referred shall be made according to the resolution of the majority of the Members.

Governor-General in Council may authorize a single Member of either Board to exercise individually, all the powers and authority vested in the Boards collectively.

XI. *First.* Nothing however contained in this Regulation shall be construed to bar the competency of the Governor-General in Council by an order in Council to authorize a single Member of the Sadr Board, either at the Presidency or on deputation, to exercise either generally or locally within the limits of their respective jurisdictions all the duties, powers and authority which are vested in those Boards collectively, whenever circumstances may render such an arrangement desirable.

And may fix the station of the Deputation

Second. It shall further be competent to the Governor-General in Council to fix the station at which the Sadr Board on deputation shall reside at such

place within the territories belonging to this Presidency as may from time to time be deemed expedient.

Board at such place as may from time to time be deemed expedient.

[The whole of this Regulation was repealed by s. 1, Act XIX of 1873, so far as it applies to the territories for the time being under the Government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the first Schedule annexed to that Act.]

REGULATION XI OF 1831.

A REGULATION *for vesting Tehsildárs in certain cases with the powers of Police Officers.*—PASSED *by the Vice-President in Council on the* 1*st November* 1831.

Preamble.

Whereas by Regulation IV, 1821 the Collectors of land revenue or other persons exercising their powers are in certain cases authorized to perform the duties of Magistrates, and whereas with a view to improve the efficiency of the Police it is expedient that in districts of the Ceded and Conquered Provinces, in which Teshildárí Establishments are maintained subject to the authority of the Collectors, the Governor-General in Council be empowered by an order in Council to vest the tehsildárs with the powers at present exercised by daroghas of Police; and whereas it is expedient to modify the existing Regulations regarding the removal of Police officers—the following rules have accordingly been enacted to be in force from the date of their promulgation throughout the provinces aforesaid.

[Section 3, Act XVI of 1854, extended this Regulation, as thereby amended, to the Province of Benares, and enacted that the powers vested hereby in the Governor-General in Council may be exercised by the Lieutenant-Governor of the North-Western Provinces. See note to s. 2, below.]

The Governor-General in Council deemed competent to authorize any tehsildár to exercise the powers vested in daroghas of Police, and the Thana and Village Police Establishments to be subordinate to his control as Chief Police Thanadar.

II. It shall be competent to the Governor-General in Council by an order in Council to authorize any tehsildár or tehsildárs to exercise the powers vested by the existing Regulations in daroghas of Police, and to determine the local limits of their Police jurisdictions, within which all officers of Police, including the present Thana and Village Police Establishments, shall be subordinate to and subject to the control of the tehsildár in his capacity of Chief Police Thanadar.

[Section 2, Act XVI of 1854, enacts that, whenever any tehsildár has Police jurisdiction under this section, every darogha of Police appointed within the local limits of the Police jurisdiction of such tehsildár shall be subordinate to and subject to the control of such tehsildár in his capacity of Chief Police Thanadar.]

Section IV, Regulation XX, 1817, modified

IV. In modification of section IV, Regulation XX, 1817 it is hereby declared competent to the darogha and tehsildár, with the sanction of the Magistrate, to make such disposition of the existing Police Establishments as may

be most conducive to the public interests, but with this exception the whole of the rules contained in the above Regulation shall be held applicable to the tehsildárs who may be constituted Police officers under this Regulation.

Tehsildárs vested with the powers of daroghas may employ in aid of their Police Establishments any chaprassis or other persons on their fixed Tehsildárí Establishments.

V. The tehsildárs, who may be vested with the powers of daroghas under this Regulation, are authorized to employ when necessary, in aid of the regular Police Establishments, any chaprassís or other persons entertained on their fixed Tehsildárí Establishments, and revenue officers when so employed shall be guided in the discharge of their Police duties by all the rules now in force or which may hereafter be enacted for the guidance of the Police officers. But the fixed Thana Establishments shall not be employed in the collection of the land revenues or in other revenue duties except in cases of distraint for arrears of rent or revenue, or such other occasion as by the Regulations in force is now authorized.

A statement to be drawn out and proclaimed in the district where the arrangement authorized by the present Regulation may be carried into effect.

VI. Whenever the Governor-General in Council shall see fit to carry into effect the arrangement herein authorized in any district or part of a district, a statement shall be drawn out specifying the number and extent of the several Police and revenue jurisdictions, the names and numbers of the officers attached to them, and the head-quarters or thanas, and the outposts of the several divisions: this statement shall be drawn out in English, Persian and the vernacular dialects, and suspended in a conspicuous place in the kachahrí of the Collector and Magistrate at the Sadr station, and shall be published by proclamation throughout the district.

REGULATION V OF 1832.

A REGULATION *for annexing the Dehli Territory to the Jurisdiction of the Courts of Sadr Díwání and Nizámat Adálat and the Sadr Board of Revenue at Allahabad.*—PASSED *by the Honorable the Vice-President in Council on the* 29*th May* 1832.

Preamble.

Circumstances connected with the interests of other departments of the public service having rendered it expedient to abolish the office of Resident and Chief Commissioner at Dehli, and there being consequently no Court of ultimate resort for the final disposal of civil and criminal cases or for purposes of general judicial control, and no authority for the superintendence of the revenue affairs which have been heretofore under the cognizance of that officer; and the establishment of a Court of Sadr Díwání and Nizámat Adálat, as well as of a branch of the Sadr Board of Revenue at Allahabad having removed the objection on the score of distance which required that those districts should be placed

under the jurisdiction of a distinct officer, it has been deemed proper to vest the judicial and revenue control of the districts in question in the Sadr Díwání and Nizámat Adálat and the Sadr Board of Revenue at Allahabad respectively. The following rules have been enacted by the Vice-President in Council to be in force in the Dehli territory from the date of promulgation.

II. The administration of the revenue, of the Police, and of civil and criminal justice, which has heretofore been superintended by the Resident and Chief Commissioner at Dehli, is hereby declared from and after the date of the promulgation of this Regulation to be vested, as regards civil matters in the Court of Sadr Díwání Adálat, as regards criminal matters in the Court of Nizámat Adálat, and as regards revenue matters in the Sádr Board of Revenue at Allahabad; and all cases actually pending before the Resident and Chief Commissioner at Dehli on the date of the promulgation of this Regulation shall be transferred to one or other of the three departments above specified, as the subject may refer to one or the other of those departments.

The administration of the revenue, of the Police, and of civil and criminal justice in the Dehli Territory to be in future vested in the Sadr Board of Revenue at Allahabad and in the Courts of Sadr Díwání and Nizámat Adálat for the Western Provinces.

III. In the conduct of civil and criminal trials, in the administration of the revenue, and in all other matters the Commissioner of the Dehli Territory and all other officers acting under his control shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects, and shall regularly furnish to the Sadr Díwání and Nizámat Adálat and the Sadr Board of Revenue at Allahabad all such statements and reports as are prescribed by the existing Regulations to be submitted by the Commissioner of Revenue and Circuit, or as may be specially prescribed in future by the authorities to whom by this Regulation they are declared to be subordinate.

The Commissioner of the Dehli Territory and all other officers acting under his control shall conform to the spirit of the Regulations, and shall furnish the Courts and Sadr Board at Allahabad with reports and statements.

IV. Provided moreover that it shall be competent to the Governor-General in Council, whenever it may be deemed expedient, to introduce the whole or a part of the Regulations in force into the Dehli Territory, and that an order or resolution of Government under the official signature of the Secretary shall be sufficient authority for that purpose.

The Governor-General in Council shall be competent to introduce into the Dehli Territory the whole or any part of the Regulations in force.

[The whole of this Regulation was repealed by s. 1, Act XXXVIII of 1858, except as to that part of the Dehli Territory commonly called the Eastern Párgana lying on the left bank of the Jumna.

As to the *Assigned Territories*, or territories assigned for the support of the Kings of Dehli, see *Rája Saligram and others* v. *The Secretary of State for India in Council*, XII B. L. R. 167.]

REGULATION IX OF 1833.

A REGULATION *to modify certain portions of Regulation VII of* 1822 *and Regulation IV of* 1828, *to provide for the more speedy and satisfactory decision of judicial questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations, for enforcing the production of the Village Accounts, for the more extensive employment of Native Agency in the Revenue Department, and to declare the intent of Section V, Regulation VII of* 1822, *touching claims to Malikána.*—PASSED *by the Governor-General in Council on the 9th September* 1833.

Preamble.

Experience having demonstrated the expediency of modifying certain enactments of Regulation VII of 1822 and Regulation IV of 1828, also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under those Regulations, and of declaring the intent of the rules regarding malikána promulgated by section 5, Regulation VII of 1822; it having been found expedient likewise that measures should be adopted for enforcing the production of the village accounts and for rendering them accessible to all persons concerned having occasion to examine them; also that natives of respectability should be employed in more important trusts connected with the revenue administration—the following provisions have been enacted to be in force from the date of their promulgation.

Provisions of Regulation VII, 1822 in regard to the mode of determining the amount of jamá to be demanded from any mahál, rescinded.

II. So much of Regulation VII of 1822 as prescribes or has been understood to prescribe that the amount of jamá to be demanded from any mahál shall be calculated on an ascertainment of the quantity and value of actual produce or on a comparison between the costs of production and value of produce, is hereby rescinded.

Provisions of the above Regulation in regard to the simultaneous prosecution of judicial investigations and determination of the Government demand, rescinded. The Governor-General in Council will hereafter determine the order in which these matters shall be disposed of

III. So much of the above Regulation as prescribes or has been understood to prescribe that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand, is hereby rescinded. The Governor-General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

V. In addition to section 33, Regulation VII of 1822 it is hereby enacted that whenever any judicial question may be depending before a Collector or other officer employed in making settlements under the provisions of Regulation VII of 1822, in which the interests of justice may in the opinion of such officer require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the Superior Revenue Authorities, a period within which the parties must produce the award.

Declaration in addition to section 33, Regulation VII, 1822 that it shall be lawful for a Collector or other officer employed in making settlements under Regulation VII, 1822 to fix under the instructions of the Superior Revenue Authorities a period within which the parties to a judicial question pending before him, and referred to arbitration, must produce the award.

[In a suit for possession of certain pieces of land by demolition of demarcation pillars and setting aside an award of arbitrators, it was observed that s. 33, Reg. VII of 1822, and ss. 5—10, Reg. IX of 1833 must be read together. An award tendered under s. 5 of the latter Regulation is binding on the Collector, and must govern him in his decision of the dispute, subject to the provisions of s. 8, and cannot be set aside by the Courts of Judicature—*Farzand Ali and others* v. *Ahmed Hosen and others*, I N-W-P. Rep. Civ. Ap. 267.]

VI. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector or other officer to summon a panchayat to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

If the parties refuse or neglect to produce the award within the term fixed, the Collector or other officer may summon a panchayat for the trial of the matter.—Panchayat how to be composed.

[Consent of the parties to arbitration is not necessary—*Ikramúla* v. *Sheo Persad*, III N-W-P. Rep. Civ. Ap. 340. In this case the Settlement Officer had omitted to fix a period for the delivery of the award. No objection was made by the parties at the time, nor by the plaintiff in particular during two and a half months that elapsed before the award. The Court refused to attach any weight to the objection when made subsequently, as being one that did not point to any substantial infringement of the law.]

VII. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the panchayat shall declare their opinions, and judgment shall be recorded according to the sentence of the majority. The Superior Revenue Authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty or the panchayats as they may consider necessary.

Panchayats so summoned how to proceed to a decision. The Superior Revenue Authorities to issue rules of practice for the guidance of the Collector or other officer as above, or of the panchayats.

VIII. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner (subject to the control of the Sadr Board of Revenue) should think proper for any special reason to direct that the case shall be submitted to another panchayat for decision.

What appeal to lie from the decisions of such panchayats.

Suits brought in any Court of Justice to set aside decisions under the above rules to be nonsuited with costs.

IX. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be nonsuited with costs.

In like manner suits against the arbitrators, collectively or individually, appointed under those rules to recover the value of the property lost under their award to be nonsuited with costs.

X. In like manner any suit brought before any Court of Justice against the arbitrators collectively or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be nonsuited with costs.

Declaration of the intention of the rules concerning malikána in section 5, Regulation VII, 1822.

XI. It is hereby declared that the rules concerning malikána contained in section 5, Regulation VII of 1822 were intended to have prospective effect only, and to be applicable solely to settlements made under that Regulation and to recusance tendered at the completion of such settlements.

Village accounts how to be kept and how many sets prepared.

XII. It is further enacted that the village accounts, which are required to be kept in such manner and form as has heretofore been the custom or in such other mode as may hereafter be prescribed by the Boards of Revenue, shall be prepared in duplicate sets, one for deposit in the office of patwárí, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated; and wherever the office of a kánúngo may be established a third copy shall be prepared and deposited in that office.

Those accounts in what mode and at what periods to be furnished for deposit in the pargána and zillah revenue offices. To be open to the inspection of all persons concerned.

XIII. The several accounts required for deposit in the pargána and zillah revenue offices as above stated, instead of being delivered at the expiration of every six months as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the Boards may direct. They shall be open to the inspection of every person concerned, desirous of examining them.

[A mortgagor was held not to be precluded from questioning the correctness of the *jamabandí* filed by the *patwárí* under the provisions of this Regulation, by reason of his not having brought the incorrect entries to the Collector's notice at the time the papers were filed—*Syud Taig Ali* v. *Golab Chaudhrí and others*, V N-W-P. Rep. Civ. Ap. 314—overruling a decision of the late Sadr Court, N-W-P. of 31st December, 1855.]

The Governor-General in Council may appoint Deputy Collectors in any revenue jurisdiction.

XVI. It shall be competent to the Governor-General in Council to appoint to any revenue jurisdiction a Deputy Collector with the powers hereinafter specified.

XVII. The office of Deputy Collector shall be open to natives of India of any class or religious persuasion. The persons selected shall be appointed by the Governor-General in Council, and shall receive their commissions from Government in the usual mode under the signature of the Secretary in the Revenue Department.

Persons eligible to the office, and how to be appointed.

XVIII. The Deputy Collectors will receive a monthly allowance to be fixed by the Governor-General in Council, and to be susceptible of increase from time to time as their conduct may appear to entitle them respectively to such consideration.

Their monthly allowance how to be fixed, and in what manner susceptible of increase.

XX. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed and are required to perform all duties assigned to them by that functionary.

The Deputy Collectors appointed under this Regulation to be subordinate to the Collector under whom they are placed.

XXI. It will be at the discretion of the latter officer to employ them in settlement duties under the provisions of Regulation VII, 1822, in the superintendence of the Government *khas mahâls*, and generally in the transaction of any other part of the duties of a Collector.

Duties in which the Collectors may employ them.

XXII. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector and appealable to the superior authorities in the usual course.

Their proceedings how to be recorded and how appealable.

XXIII. Provided always that the Collector is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

The Collector may resume the duties committed to them, informing the Revenue Commissioner of his reasons.

XXIV. Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the employment of the Deputies or the distribution of business to be assigned to those functionaries, subject to the general control vested in the Sadr Board of Revenue or the Government, as the case may be.

What interference may be exercised by the Revenue Commissioners with the arrangements made by the Collectors for the employment of the Deputy Collectors.

Rules regarding the dismissal of the Deputy Collectors.

XXV. A Deputy appointed under this Regulation shall not be removable but for misconduct, and with the sanction of the Governor-General in Council. Whenever there may be reason to believe that a Deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities through the channel of the Sadr Board of Revenue for the consideration of the Governor-General in Council, who shall be competent to suspend him and order a further inquiry into the conduct of such Deputy, or to direct his immediate dismissal, as may appear just and proper.

REGULATION XIII OF 1833.

A REGULATION *for abolishing the Courts of Díwání Adálat of the Zillahs of Ramghur and Jangal Maháls and for providing special rules for the superintendence of certain tracts of country at present included in the Zillahs of Ramghur, Jangal Maháls and Midnapúr.*—PASSED *by the Governor-General in Council on the 2nd December* 1833.

Preamble.

Whereas considerations connected with the present state of certain tracts of country now included in the Districts of Ramghur, Jangal Maháls and Midnapur, the nature of the disturbances which recently prevailed in various parts of those districts and the character of the inhabitants have rendered it expedient to separate these tracts from those districts and to place them under an officer to be denominated "Agent to the Governor-General;" and whereas it is necessary to provide special rules for the administration of civil and criminal justice and for the superintendence of police, land revenue, customs, abkarí, stamps and all other local civil duties; and whereas it is expedient with reference to the proposed arrangements to abolish the Díwání Adálat of Zillahs Ramghur and Jangal Maháls—the following rules have been enacted to be in force from the date on which the Agent to the Governor-General may assume charge of the new jurisdiction.

Parts of Regulation III, 1793 and Regulation XVIII, 1805 rescinded; and the Courts of Díwání Adálat of Zillahs Ramghur and Jangal Maháls abolished.

II. Such parts of Regulation III, 1793 and Regulation XVIII, 1805 or any other Regulations as relate to the constitution of the Zillahs of Ramghur and Jangal Maháls are hereby rescinded; and the Courts of Díwání Adálat of Zillahs Ramghur and Jangal Maháls are hereby abolished.

III. The undermentioned tracts of country at present included in the Districts of Ramghur, Jangal Maháls and Midnapur shall be separated from those districts, and the operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the land revenue, customs, abkarí and stamp revenue, together with all other rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI, 1793, is suspended and shall cease to have effect therein from the date specified in the preamble of this Regulation, except as hereinafter provided.

Separation of certain tracts of country from the Districts of Ramghur, Jangal Maháls and Midnapur. The operation of all rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI, 1793, as far as regards the tracts so separated, suspended. Exception.

In the District of Ramghur—

Chota Nagpore.
Palamow.
Kurruckdía.
Ramghur.
Kunda.

In the District of Jangal Maháls—All the Maháls at present comprised in this District, except the following—

Sainpaharí.
Shírghur.
Bishenpore.

In the District of Midnapur—

Dhulbhúm including Ghatsíla.

IV. The administration of civil and criminal justice, the collection of revenue, the superintendence of the police, of the land revenue, customs, abkarí, stamps and every branch of Government within the tracts of country separated, as prescribed in the foregoing section, shall be vested in an officer appointed by the Governor-General in Council, to be denominated "Agent to the Governor-General."

The administration and superintendence of every branch of Government within the tracts so separated, vested in an officer denominated Agent to the Governor-General.

[Act XX of 1854 repealed so much of this Regulation as prescribes that the officer in whom the duties specified in the above section (4) shall be vested shall be denominated Agent to the Governor-General; and enacted that such duties shall be vested in any officer whom the local Government shall from time to time appoint for that purpose, which officer and his assistants shall exercise all the powers vested by the Regulation in the Agent to the Governor-General and his assistants; and all the provisions of the Regulation relating to the Agent shall be equally applicable to the officer so appointed as aforesaid.]

V. It shall be competent to the Governor-General by an order in Council to prescribe such rules as he may deem proper for the guidance of the Agent and all the officers subordinate to his control and authority, to determine what powers shall be exercised by the Agent and his assistants respectively, also to

Governor-General declared competent by an order in Council to prescribe rules

for the guidance of the Agent and all officers subordinate to his authority. Also to define the authority to be exercised by the Agent and the Nizámat Adálat respectively in criminal trials.

determine to what extent the decision of the Agent in civil suits shall be final and in what suits an appeal shall lie to the Sadr Díwání Adálat, and to define the authority to be exercised by the Agent in criminal trials, and what cases he shall submit for the decision of the Nizámat Adálat.

The Nizámat Adálat how to proceed in passing final judgment or orders in criminal trials referred by the Agent.

VI. Upon the receipt of any criminal trials referred by the Agent under the rules which may be hereafter prescribed by the Governor-General by an order in Council, the Nizámat Adálat shall without submitting the proceedings for the fatwa of their law officers proceed to pass a final judgment or such other order as may after mature consideration seem to the Court requisite and proper in the same manner as if the trial had been sent up in ordinary course from a Commissioner on Circuit.

The Governor-General declared competent by an order in Council to annex to any zillah that portion of the Ramghur and Jangal Mahál Districts not included in the jurisdiction of the Agent, and to make alterations in the limits of the district placed under the Agent, or of any of the adjacent zillahs.

VII. It shall be competent to the Governor-General by an order in Council to annex to any zillah he may deem proper that portion of the Ramghur and Jangal Mahál Districts which is not by this Regulation included in the jurisdiction of the Agent to the Governor-General, and to make from time to time such alterations in the limits of the district placed under the Agent or of any of the adjacent zillahs as he may deem expedient.

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Works by the same Author.

THE LAW OF EVIDENCE IN BRITISH INDIA.

C. D. Field, M.A., LL.D., of the Inner Temple, Barrister-at-law; and of H. M.'s Bengal Civil Service; formerly Scholar of Trinity College, Dublin. *Second Edition.*

This work contains the Indian Evidence Act (as amended by Act XVIII of 1872) and all provisions on the bject of Evidence which are to be found in the Acts of Parliament applicable to India, in the Acts of the gislative Council of India, in the Acts of the Local Legislatures of Bengal, Madras, and Bombay, and in the gulations of the Bengal, Madras, and Bombay Codes, and which are in force and unrepealed by the idence Act or any other Act. These provisions of the Statute Law, which constitute the only rules of idence now in force in India, are explained in detail, and the history and meaning of the principles contained them illustrated from 1,200 decisions of the Privy Council, of the High Courts in India, of the Courts Westminster, and of other Courts which have authoritatively dealt with the subject. The New Consolida- n Oaths Act is given in an *Appendix.*

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* Those who have not seen a copy of the "Table and Index" published at Home may take an interest in the following extract from the preface:—

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